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DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS:
U.S. COAST GUARD (G-MP-5)
WASHINGTON, D.C. 20590
PHONE: (202) 426-9776

CONTIN 9353

COMDTNOTE 16000

8 JAN 1980

COMMANDANT NOTICE 16000

CANCELLED: 1 JUNE 1980

Subj: CH-4 to Volume V - INVESTIGATIONS of the Marine Safety Manual (COMDTINST M16000.3) (old CG-495)

1. PURPOSE. This Notice transmits a change to Volume V - INVESTIGATIONS of the Marine Safety Manual by revising chapter 74 (Pollution Investigations).

2. DIRECTIVES AFFECTED. Enclosures 1, 3, and 4 to COMDTINST 16450.1 (Documentation of Pollution Incidents) are superceded by this Notice. Enclosures 2, 5, 6, and 7 of COMDTINST 16450.1 remain in effect; they will be superceded by a revision to part 86-3 of this manual.

3. SUMMARY OF CHANGES. The revised material in chapter 74 reflects adoption of a new Water Pollution Violation Report Form and amplifies policy guidance on the conduct of pollution investigations.

4. ACTION.

   a. Remove and insert the following pages:

Remove	Insert
74-0:1 through 74-5:2	74-0:1 through 74-6:1, CH-4.

   b. Make an entry on the "Record of Changes" page at the front of the volume.

DISTRIBUTION - SDL No. 110

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NON-STANDARD DISTRIBUTION:

(See page 2.)

5. CHANGES. Suggestions for improvement of the Marine Safety Manual should be made on Form CG-5122 which has been supplied with the manual.

Encl: (1) CH-4 to Volume V, COMDTINST M16000.3

Non-Standard Distribution:

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C: e San Francisco (60); Baltimore, Port Arthur (40); Hampton Roads (36); Mobile (26); Miami (24); Chicago (22); Boston, Corpus Christi, Galveston, Portland, OR, Honolulu, Valdez (20); Jacksonville, San Diego (18); Portland, ME (16); San Juan, Tampa, Cleveland, Detroit (14); Charleston (13); St. Louis, Duluth, Toledo (12); Guam (11); Providence, Huntington, Pittsburgh, Wilmington, Savannah, Buffalo, Anchorage, Juneau (10); Louisville, Memphis, Paducah (8); Cincinnati, Nashville, Albany, Milwaukee, Minneapolis-St. Paul (6); Sturgeon Bay (2).
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Panama Canal Zone Liaison Officer (1).
Transportation Safety Institute (100).

MARINE SAFETY MANUAL

CHAPTER 74—POLLUTION INVESTIGATION

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PART 74–1—POLLUTION INVESTIGATION AUTHORITY

▼74–1–1. RESPONSIBILITY TO INVESTIGATE—PRACTICAL LIMITATIONS

74–1–1A. IMPLICIT REQUIREMENT TO INVESTIGATE

The Coast Guard shall, whenever possible, insure that every report of a discharge in violation of section 311 of the Federal Water Pollution Control Act (FWPCA), as amended (33 U.S.C. 1321), is investigated. While it is not explicitly stated that to assess a penalty under section 311(b)(6) of the FWPCA the Coast Guard must conduct an investigation, it is necessary to gather evidence which proves the elements of the offense. It is also necessary to obtain information concerning the gravity of the offense, in order that this information may be taken into consideration when assessing a penalty. In the absence of specific legal requirements to the contrary, the implicit responsibility to insure the proper investigation of all discharges for the purpose of assessing civil penalties rests with the Coast Guard.

Collaterally with the responsibility for assessing penalties, the Coast Guard has a responsibility for determining the cause of spills to the extent that remedies may be sought to prevent similar incidents. Although authorities for such remedial actions are found elsewhere in the Federal statutes, the interrelationships of the reasons for conducting an investigation dictate that the causal/ remedial aspects of an investigation be coordinated.

In some instances, shore personnel are not able to investigate reported discharges sighted by aircraft, and an aircraft report is the only information available to the hearing officer when considering the assessment of a civil penalty. In some recent incidents, written statements of discharges sighted by aircraft personnel have contained only a minimum of facts surrounding each case. Insufficient documentation in these statements, coupled with a lack of photographic or other evidentiary material, has led to dismissal of these cases. In order that the hearing officer can more effectively determine that a pollution violation has occurred, documentation of the case must not only be factual, but also must be complete and adequately detailed.

74–1–1B. AGREEMENTS REGARDING INVESTIGATIONS

The Coast Guard must, through whatever means available, insure that an investigation is conducted for all reported discharges. That is the Commandant's basic policy. It is recognized, however, that, in some instances, manpower and budgetary constraints may preclude the investigation of every reported discharge by Coast Guard personnel. Resources from other Federal, state, or local agencies can be used to perform the initial survey of an incident when time or resource restrictions are a problem. Agreements should be made among Coast Guard districts, Environmental Protection Agency (EPA) regions, and/or the states to distribute the burden of investigations for all reported discharges. These agreements should outline the minimum information to be included in the investigative report.

In cases where there are more discharges than resources to investigate, a system of priorities should be established according to the severity of the discharges. However, the severity of a discharge shall not be determined by size alone. Other factors to be considered in determining severity include, but are not limited to, the following:

(1) What type of pollutant was discharged? What quantity was discharged? Will the pollutant readily dissipate? Have port safety factors such as fire, explosion, etc. been considered?

(2) Is corrective action being taken by the party responsible for the discharge? Does he have a prior record of offenses?

(3) What effect will the on-scene weather have on the movement of the oil (pollutant)?

(4) In what geographical area did the discharge occur? Can it be expected to spread to nearby water intakes, recreational areas, waterfowl areas, wetlands, or other environmentally sensitive areas?

(5) Is there potential for further discharge, either into the navigable waters or onto adjoining shorelines?

▼74–1–5. POLLUTION PENALTY MANDATE

Every proven violation of section 311 of the FWPCA as amended (33 U.S.C. 1321(b)(3)) shall result in the assessment of a civil penalty. (See part 13–3 of this manual.)

▼74–1–10. EFFECT OF STATE AND LOCAL ACTIONS

Actions taken by a state, municipality, or other Federal agency against a party in a given incident shall, in no way, affect Coast Guard investigations or civil penalty assessment procedures.

▼74–1–15. POLLUTION PENALTY ACTION FEEDBACK

The district commander shall insure that information concerning the disposition of every civil penalty case is forwarded to the unit or referring agency that investigated the reported violation. In addition, notification should be made to the unit (FOIL or COIL) which conducted sample analysis, if samples were used.

PART 74–2—POLLUTION INCIDENT INVESTIGATIONS

▼74–2–1. PURPOSE OF POLLUTION INVESTIGATIONS

The purpose of a pollution incident investigation is to collect information and evidence that will enable the Coast Guard to initiate successful enforcement action against a polluter. This includes the location of the source and the determination of the extent and cause of the discharge, so that a civil penalty may be imposed and liabilities for removal costs incurred by the Federal Government can be fixed.

▼74–2–5. TYPES OF INVESTIGATIONS

74–2–5A. GENERAL

There are two types of pollution incident investigations for enforcement of the FWPCA: one to support a civil penalty action, and the other to support criminal action for non-notification. Notwithstanding marine casualty investigation requirements, a suspension and revocation proceedings investigation shall also be conducted for pollution incidents where U.S. vessels are involved, in every case involving licensed and/or documented personnel. However, these need not be separate and distinct investigations. In each case in which suspension and revocation proceedings is possible, it must be reviewed by an investigating officer designated in accordance with 46 CFR 5.02–20.

All OCMI's shall insure that suspension and revocation investigations are conducted in all pollution incidents involving persons acting under the authority of a license and/or Merchant Mariner's Document.

74–2–5B. INVESTIGATIONS FOR CIVIL PENALTY ACTION

An investigation for civil penalty purposes must be made for all pollution incidents, taking into account the practical factors as discussed in section 74–1–1B of this manual. The investigation must seek factual information concerning all the elements of a violation of section 311(b)(3) of the FWPCA (33 U.S.C. 1321(b)(3)). That section prohibits the discharge of harmful quantities of oil or hazardous substances into or upon the waters of the United States, the adjoining shorelines, or into the waters of the contiguous zone. The contiguous zone extends seaward a distance of nine nautical miles beyond the three-mile limit of U.S. territorial waters. A "harmful quantity" of oil has been defined as any quantity that causes "a visible *film* or *sheen* upon or *discoloration* of the surface of the water or adjoining shorelines or causes a *sludge* or *emulsion* to be deposited beneath the surface of the water or upon adjoining shorelines" or that violates applicable water quality standards (see 40 CFR 110.3). "Oil" means "oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil" (see 33 U.S.C. 1321(a)(1)). (Note: 40 CFR parts 116 and 117 list hazardous substances and their "harmful quantities.") The owner/operator or person in charge of the vessel, or onshore/offshore facility, from which the oil or hazardous substances is discharged in violation of section 311(b)(3) of the FWPCA is subject to a civil penalty of not more than $5,000 (see 33 U.S.C. 1321(b)(6)).

Discharges of oil and hazardous substances from activities under the Outer Continental Lands Act or the Deep Water Ports Act of 1974, or which may affect natural resources belonging to or under the exclusive management authority of the U.S., are prohibited by the 1977 amendments to the Federal Water Pollution Control Act. At present, however, the harmful quantities of the prohibited substances have not been defined beyond the contiguous zone.

To establish that there has been a violation, facts must be shown which support the following determinations:

(1) That oil or a hazardous substance was discharged.

(2) That the discharge was in a quantity which may be harmful.

(3) That the discharge was into or upon the navigable waters of the United States, adjoining shorelines, or waters of the contiguous zone.

(4) That the discharge was from a vessel or from an onshore or offshore facility.

(5) That the owner or operator of the vessel or facility at the time of the discharge (against whom penalty action may be taken) was identified.

The following personnel should be interviewed:

(1) Vessel Personnel. The vessel's master, licensed operator, or senior watch officer shall usually be interviewed first. The chief engineer or senior engineering officer on board should always be interviewed to ascertain the vessel's material condition and/or underway operations. Anyone on the vessel who may have knowledge of the pollution incident should be interviewed, such as a barge's tankerman or a tank vessel's pumpman.

(2) Shoreside Personnel. The person who is in charge should be interviewed first. All other persons who may have knowledge of the incident should also be interviewed. Persons to be contacted vary greatly in these situations and must be sought, depending on the nature of the spill and the suspected source. Potential interviewees are stevedores, longshoremen, dock workers, crane operators, and security patrol officers.

Statements should be obtained from all those people who witnessed the pollution incident, if possible. (See part 70–4 of this manual for interview techniques and part 70–6 of this manual for information concerning statements.)

During the conduct of an investigation, the investigating officer should also be conscious of the possibility of a violation of the pollution prevention regulations contained in 33 CFR parts 154–156 or other regulation violations applicable to the facilities or vessels involved. (See chapter 44 of this manual.)

74–2–5C. INVESTIGATIONS INTO NON-NOTIFICATION OF POLLUTION INCIDENTS

The purpose of this type of investigation is to collect information which can be forwarded to the United States attorney, so that criminal action may be brought against violators of section 311(b)(5) of the FWPCA (33 U.S.C. 1321(b)(5)). That section requires that the person in charge of any vessel or onshore/offshore facility from which oil or a hazardous substance is discharged in violation of the act, shall immediately notify the appropriate agency of such discharge. The duty officer at the National Response Center (NRC), at Coast Guard Headquarters, has been designated as the appropriate official for the purpose of receiving the notice of these discharges. As of 1 January 1977, calling the National Response Center's toll-free number (800–424–8802) will satisfy all Federal reporting requirements for discharges occurring within the continental United States. For reporting requirements in other areas and alternate officials to notify if unable to contact the NRC, see the regulations in 33 CFR part 153. The failure of a person to make immediate notification is a criminal act and, upon conviction, that person can be fined not more than $10,000, or imprisoned for not more than one year, or both.

The elements of this violation are that:

(1) All the elements establishing a violation of section 311(b)(3) of the FWPCA have been established.

(2) The person who was in charge had knowledge of the discharge.

(3) The person who was in charge failed to immediately notify the appropriate official in accordance with 33 CFR 153.

Notification received pursuant to section 311(b)(5) cannot be used as evidence against the person who was in charge in any criminal prosecution (except in prosecutions for perjury or for making a false statement), nor can evidence be used which is obtained by the exploitation of such notification.

74–2–5D. MIRANDA WARNINGS TO PERSONS BEING INTERVIEWED

The same persons should be interviewed as in investigations for a civil penalty (see section 74–2–5B of this manual), except that the person in charge must be identified. A special consideration in interviewing the person in charge is that non-notification is a criminal offence. If it is suspected that the person in charge has violated the criminal provision of the Federal Water Pollution Control Act for non-notification (33 U.S.C. 1321(b)(5)), the issue of whether the giving of the Miranda warning is required should be considered (see section 70–4–25C).

PART 74–3—COLLECTION OF EVIDENCE

▼74–3–1. PHOTOGRAPHIC EVIDENCE

74–3–1A. GENERAL

The use of photography can greatly enhance a report by helping the reader to visualize the scenario. Pictures can help to document the fact that a "quantity which may be harmful" is involved and to identify the source of the discharge. As with any other tool, the desired results can only be attained through careful use.

The complexity of photographic equipment ranges from the "aim and shoot" type of camera to a complex 35-mm system. The simplest camera that is adequate for the varying conditions found in the area should be used. A picture that is properly taken and documented is far more valuable than a high quality picture that is poorly documented or is challenged due to the use of a special attachment. It should be remembered that the intent of photography is to enhance an investigative report and *not* to provide "magazine quality" photographs. On the other hand, an inadequate camera will provide disappointing results and may do irreparable harm to a complex report.

In order to be of use in an investigative report, photographs must be properly taken and documented. The pictures should establish, beyond any doubt, that the oil being photographed was discharged by the vessel or facility. To accomplish this requires that the investigator take "area" shots to identify the vessel or facility followed by "close-in" photographs to show the amount and type of pollutant. If the pictures are taken from an aircraft, it is usually beneficial to have the initial photographs show a wide area in order to fix the position of the aircraft and the discharge. In order to facilitate documentation and enable easy reference to the photographs in a report, only photographic prints will be acceptable. Slides are acceptable *only for special uses* such as presentations. The photographs shall be mounted and labeled as shown in plate 74–3–1A.1. The information shown shall be stamped on the back of each photograph *or* on a separate page with the photo mounted to cover it, so long as the photograph is indelibly marked with the case number and the photograph number. The investigator shall keep his photographic log in the Water Pollution Incident Report Workbook, Form CG-3639A, *or* on separate notes. A separate roll of film shall be used for each case or sighting.

Local controls to insure that the chain of custody for each roll of film is not broken will vary with the size and workload of the unit. Preferably, each unit should have a single lab to perform its developing, and should inform that lab that the photographs are to be used for documentation of Coast Guard investigations. The lab should be required to deliver the negatives in one continuous strip, instead of cutting them into segments.

74–3–1B. AERIAL PHOTOGRAPHS

Since photographs provide the most graphic evidence that a polluting substance such as oil was discharged, and since many pollution sightings occur during missions other than marine environmental protection (MEP) patrols, cameras and sufficient supplies of film should be carried on all aircraft flights. When a discharge is sighted, the following subjects should be included in the photographs, to the maximum extent practicable:

(1) Vessels:

(a) The vessel and its wake, if underway.

(b) The discharge and its relationship to the vessel (long-range and short-range).

(c) The vessel's name.

(d) The source of the discharge from the vessel (if ascertainable).

(e) If a tow, the towing vessel and its wake, in addition to the tow's wake.

(f) Any unusual activity on the deck of the vessel.

(g) Any buoys or other structures in the area (including land masses) and their positions in relation to the vessel. This will aid in documenting the exact location of the vessel.

(h) Any other vessels in the immediate area and their wakes.

(i) Any other possible sources of discharge in the immediate area.

(2) Facilities and other sources:

(a) The facility (or suspect source) in sufficient detail to provide positive identification, including its relationship to any other landmarks.

(b) The point source of the discharge (if available), in sufficient detail to identify its location on the facility.

(c) The sheen/discoloration in the vicinity or extending from the suspect facility (long-range and short-range).

(d) Any vessels moored at the facility, or anchored or moored in the immediate vicinity.

(e) Any unusual or incriminating activity on the facility or on vessels in the immediate vininity.

(f) Any other suspected sources in the immediate area.

Photographing aerial sightings of pollution incidents presents certain problems not encountered in photography from ground level. Excessive motion due to the high speed of the aircraft, air turbulence, and power-plant vibration can be minimized by utilizing cameras with high shutter speeds and taking care not to brace the cameras or the photographer against the aircraft. The pilot may assist in minimizing movement by slowing the aircraft and by slipping the aircraft towards the subject when in position for a good photograph. Hovering in a helicopter may be useful in some instances but does have a tendency to increase vibrations.

Atmospheric haze is also a problem for the aerial photographer. To minimize its effects, the sun should be behind the camera, the photograph should be taken through an open door or window, and a Skylight filter should be used. Generally, the exposure setting indicated by the camera's light meter will be accurate at lower altitudes. When taking pictures from greater heights or when there is considerable haze, it is advisable to "bracket" pictures by taking a picture at an aperture setting above and below the setting indicated by the camera meter. It may be advisable to bracket exposures at all times if past experience indicates problems with haze.

While most of the above comments apply to a 35-mm camera system, some of them apply to the "aim and shoot" type. It is emphasized that aerial photographs should be taken with the simplest camera which gives consistently good results. Each pollution sighting is to be photographed on a separate roll of film. District commanders shall assist air stations in the procurement of proper photographic equipment and the training of aircrew members in its use. All photographic information should be entered in the Water Pollution Incident Report Workbook in the spaces provided.

74–3–1C. SURFACE-LEVEL PHOTOGRAPHS

The investigating officer or his assistant should take photographs of the affected area and log the applicable data in the Water Pollution Incident Report Workbook. Both long-range and detailed close-range color photographs should be taken of the discharge and the suspected source of the discharge. Long-range photographs should include enough of the surrounding scenery to permit positive identification of the location (landmarks, people, name and homeport on the vessel's hull, etc). Close-range photographs should be related to a long-range picture to show where they fit in. A person, tape measure, yardstick, etc. should be utilized to indicate relative size. On many prints, particularly those having a textural finish, a felt-tip pen can be used to point out specific areas to be illustrated (some detail can be lost with textured finishes, however). Photographs taken of a pollution incident should depict a fair and accurate representation of the situation. The

minimum number of photographs which should normally be taken include:

(1) A comprehensive one, showing a broad view of the scene.
(2) At least one showing the path taken by the pollutant from the source to the water, and more if necessary.
(3) One or more which shows the pollutant in the water.

When photographing oil in the water, care should be taken that the angle and distance are such as to preclude confusion between the oil and the natural surface reflection of the water, and between discolored water and shadow effects.

If individuals other than Coast Guard personnel volunteer to photograph a pollution incident, they shall be instructed as to the type and character of the photographs desired. They shall also be advised that the Coast Guard cannot reimburse them for the costs of processing the photographs; however, the film used can be replaced in kind.

▼74–3–5. STATEMENTS

74–3–5A. GENERAL

The ideal statement is written in the witness' own handwriting. It should include his name, a description of his employment, his location at the time of the incident, and his description of the incident.

Often, it is impossible to obtain a written statement due to reluctance on the part of a witness. When this occurs, the investigator should transcribe statements and answers to questions given by the witness and have the witness sign it. If the witness refuses to sign, the investigator should check the accuracy of his notes with the witness in the presence of another investigator or a person willing to attest to the statement(s) of the witness being questioned. For the purposes of witness information, to "verify" is to check the accuracy of the investigator's notes with the witness; to have the notes "attested" is to have another investigator or person present, who will observe the taking of the statement and confirm that the written notes accurately reflect what the witness has said. A suggested statement form is provided in plate 74–3–5A.1. The following is the order of preference for witnesses' information:

(1) Handwritten and signed statement.
(2) Attested notes of the investigator's interview, signed by the witness.
(3) Verified and attested notes of the investigator's interview.
(4) Verified (unattested) notes of the investigator's interview.
(5) Unverified and unattested notes;

74–3–5B. PRIVACY ACT STATEMENTS

The need to collect a witness' name, address, telephone number, and/or place of employment necessitates providing him with a Privacy Act statement. Interviewing bystanders does not require a Privacy Act statement, unless one is collecting personal information. Whenever the investigator feels that a statement with the personal information noted above should be collected, the potential witness should be provided with a Privacy Act statement. Care should be taken to explain that you are *not* giving them a Miranda warning. (A sample Privacy Act statement is provided in plate 74–3–5B.1.)

74–3–5C. PROTECTION OF WITNESSES

Witnesses are often reluctant to give information because of possible sanctions they may suffer if it is made known that they provided information to a Coast Guard investigator. Section 507 of the Federal Water Pollution Control Act (33 U.S.C. 1367) provides a measure of protection by establishing a procedure whereby an employee may apply to the Secretary of Labor to investigate his employer, when the employee has been fired or otherwise discriminated against for participating in any proceeding for enforcement of this cct.

Statements collected in the course of an investigation and presented as part of the evidence to be considered by the hearing officer cannot be withheld in any part from the accused without violating his right to administrative due process.

When a witness or potential witness expresses a concern over possible sanctions by his or her employer, the investigator should draw upon the information provided to develop evidence which can then be presented to the hearing officer without disclosing the identity of the employee.

Investigators are cautioned that once written information is made part of the unit file, even though it is not presented to the hearing officer, the entire file may be subject to the discovery process if a judicial proceeding for collection or appeal is begun.

When the statement of a witness is essential to the case, certain protections can be afforded to prevent exposure of the witness through Freedom-of-Information Act requests on the discovery process of a judicial proceeding. Close contact with the district legal office should be maintained whenever the question of protection of witnesses in such cases arises.

▼*74–3–5D. STATEMENTS FROM SUSPECTED POLLUTORS*

When interrogating a civilian in a criminal law enforcement investigation, Miranda-type warnings must be given if an individual (as opposed to a corporate suspect) is:

(1) Suspected of a criminal offense, *and*
(2) In custody or in an equivalent situation where his freedom of movement is restrained.

Although criminal actions under pollution-control laws most frequently are against corporate entities, there are situations in which criminal prosecutions are initiated against individuals. In these cases, a warning is required prior to commencing a custodial interrogation. If in doubt, the district legal officer should be contacted. Section 70–4–25C of this manual contains the text of a proper Miranda warning. (It should be noted that most pollution investigations are *not* for criminal offenses. The only criminal pollution offenses normally investigated are for section 311 (failure to notify), section 309 (willful pollutant discharge), Refuse Act violations, and violations of the Oil Pollution Act of 1961, as amended.)

74–3–5E. STATEMENTS FROM COAST GUARD OBSERVERS

District commanders shall insure that Coast Guard observers on oil-surveillance overflights and waterborne patrols (inner harbor patrols, etc.) are trained to provide the on-scene coordinator (OSC) with the following minimum information:

(1) The time of the observation.
(2) The apparent size of the discharge and whether it created a sheen, film, sludge, emulsion, discoloration, or a violation of applicable water quality standards.
(3) The location of the discharge or sighting, including the information necessary to determine "navigable waters" (see section 74–4–10C).
(4) The apparent source, if possible.
(5) The prevailing weather, tidal, sea and current conditions.
(6) The type of pollutant.
(7) The experience of the observer.

The observer should provide the OSC with a written statement describing in detail the discharge as observed. Estimates of spill size should also include how the observer arrived at the estimate. Plate 74–3–5E.1 contains a sample statement for use as a guide.

74–3–5F. FORMAT OF STATEMENTS

Plate 74–3–5F.1 contains a suggested format entitled *Pollution Incident Statement*. It is the preferred format for all statements not requiring a

Miranda warning. (For guidance concerning Miranda warnings, see section 70–4–25C of this manual.) The statement form used should contain the warning statement as presented. Plate 74–3–5F.2 contains a suggested format entitled *Pollution Incident Summary of Statement*. It is to be used when the investigator must, or elects to, interview a suspect who will waive the right to remain silent but will not sign a statement. The waiver statement is not required when a witness is not a suspect.

▼74–3–10. PURPOSE OF SAMPLING

Annex VIII of the National Oil and Hazardous Substances Pollution Contingency Plan states that samples must be obtained as part of the Federal activity following a discharge of oil or hazardous substance, for use in identifying the source and the party responsible for the discharge, and for the recovery of removal costs. Sample analysis is also useful for civil and criminal enforcement actions under appropriate Federal statutes.

The basic assumption upon which sampling rests is that the samples are representative of the pollutant and the source. A sample's value as evidence depends upon whether this assumption is valid or not. It is important for the investigator to remember that anything he does that calls into question a sample's "representativeness" damages that sample's usefulness as evidence (e.g., was the chain of custody maintained?).

By following these guidelines, the investigative team will maintain proper sample custody, prevent sample contamination, minimize damage during shipment, and provide the laboratory with sufficient sample for a complete analysis. Consequently, the laboratory will be better able to provide legally valid evidence and more convincing testimony.

▼74–3–15. SAMPLING PROCEDURES

74–3–15A. GENERAL

Samples should be taken from the water by the investigating officer or his assistant immediately upon arrival at the scene of the pollution incident. The first opportunity to take a sample may be the last. The pollutant may evaporate, spread, or be dispersed by wind or current. In the weathering process, the pollutant may change significantly, and a comparative analysis might not show a positive match, even if the two oils were the same initially. Proper handling and storage of the samples once taken will minimize any further weathering. All information about the samples should be recorded in the Water Pollution Incident Report Workbook.

A minimum of three samples is required:

(1) "Clean unpolluted" water from "upstream" to show prespill conditions.
(2) The pollutant itself (it is necessary to take samples from different locations if the spill is widespread).
(3) Suspected sources in the area.

It may be necessary to obtain several samples from a suspected source. A tank vessel may carry different products in her cargo tanks, requiring a sample from each, not to mention samples from ship's fuel tanks, daytanks, and bilges (including pumproom bilges). Bilge samples should be taken as close as possible to the suction for the bilge pump in each compartment.

All possible sources of the discharged pollutant must be investigated where practicable. The term "possible sources" in this connection means vessels or facilities which, at or near the time of the discharge, might have been the source. Where available facts demonstrate that the pollutant could not have been discharged from a particular vessel or facility because:

(1) The pollutant was not on the vessel or facility at the time of the discharge, or
(2) The wind and current conditions existing between the time of the discharge and the time of discovery cannot account for the known location or movement of the discharge,

then that vessel or facility is not a "possible source." The facts which so eliminate a vessel or facility from consideration as a possible source should be stated in the investigation. When it is impracticable to sample all "possible sources," as in a heavily trafficked waterway, this fact should be stated. Also, where all "possible sources" have been sampled, that fact should be noted in the investigative report. Cases have been lost when it was found later that a nearby ship or facility carried the same product that was spilled but was not sampled or otherwise noted and eliminated from suspicion.

74–3–15B. EQUIPMENT

Clear, four-ounce glass, wide-mouth bottles with Teflon-lined lids are preferred containers for samples. Cleanliness of sample bottles and all sampling equipment cannot be over-emphasized. The presence of any other oil or oil by-product may destroy the representativeness of a sample. A Teflon-lined screw-top is necessary to prevent contamination of the sample. Mayonnaise, peanut butter, or fruit jars have tops which are backed with a rubber, plastic, or waxy material. When these materials come in contact with petroleum oil, a small amount of the backing will dissolve and alter the fingerprint of the oil. Altering the fingerprint renders the sample useless. If a sample must be taken and the recommended jars are not available, use a clean glass jar and cover the top with aluminum foil before placing the screw-top on the jar. A major problem with this is that foil-lined tops almost always leak during shipment. Some pollutants may require a different or special "insulating" material. The laboratory that will conduct the analysis should be contacted whenever a question arises as to the appropriateness of any "insulating" material.

Although most vessels and facilities have some means of obtaining samples, difficulties may be encountered when attempting to obtain samples from an underground storage tank at an apartment complex or gas station, or from piers not affording easy access to the water. A one-foot length of two-inch pipe, capped at one end with a bridle on the other end for attachment of a line, provides a servicable one-use device for obtaining a sample. Standard equipment that should be contained in the investigating officer's "sample kit" includes:

- Disposable gloves
- Line (or sail twine) for suspending sample jars
- Rags, towels, etc.
- Hand cleaner
- Teflon strips
- Tongue depressors
- Sample bottles
- Chain-of-custody and sample identification labels
- Aluminum foil
- Plastic tape and Magic Marker

A description of recommended materials and ordering information is shown in plate 74–3–15B.1.

▼*74–3–15C. DETAILED PROCEDURES*

Direct contact of the sample-taker with the oil being collected is to be avoided, unless it is clearly evident that there is no hazard involved. The reason for such a policy is to protect the sampler from any unknown chemicals which may be in the water. Contact can be avoided by using a string tied to the sample jar, a tongue depressor to scrape a sample off a rock or piling, use of Teflon strips, or by wearing protective gloves when taking a sample. Field use of a ladle is *not* recommended, due to sample contamination problems requiring "once only" use of a ladle or the carrying of flammable and toxic cleaning agents in the field. Sufficient samples should be taken at various times and locations to insure that all the oil being cleaned up originated from the same source.

Dip the bottle in the oil at an angle of about 30 degrees from the vertical, submerging the lip of the bottle just below the layer of oil. This procedure draws the oil off the surface of the water and into the bottle. For sampling substances other than oil that are miscible or partially miscible in water, obtain several samples (preferably at different locations) and attempt to collect the strongest concentration of the pollutant in the water.

Contamination of the sample can be avoided by the application of common sense and the following few simple procedures:

(1) No part of any sampling device, contaminated by the collection of a prior sample, should come in contact with the oil being sampled.

(2) Sample bottles should not be filled greater than two-thirds full. This eliminates the possibility of the sample contents expanding and breaking the seal of the jar.

(3) Unused bottles and unused Teflon or aluminum foil-lined caps are to be used in taking the samples. A four-ounce, wide-mouth sample bottle is preferred.

This does not preclude taking a "sample of opportunity" utilizing another type of sample container if the situation warrants. Steps are being taken by the Commandant to provide standard sample bottles, caps, and labels through the Coast Guard supply system.

Remove excess water from an oil sample by using a tongue depressor to hold back the oil, allowing the water to flow out of the bottom; or invert the bottle, loosen the lid, and let the water flow slowly out the bottom. If Teflon strips are used for sampling light oil sheens, skim them lightly through the oil, then place just the strips into the sample jar. After the oil has run off the strips, repeat the process until sufficient oil is collected.

▼74–3–20. POSTSAMPLING PROCEDURES

74–3–20A. SEALING

As soon as samples are collected, they should be sealed. Seals should consist of tape around the gap between the lid and the jar to keep the lid on and the sample from evaporating. Gummed labels should then be placed on the jar overlapping the tape edges. The labels should have the sample identification on one label and the chain of custody list on the other.

74–3–20B. LABELING

The identification and custody information shall be filled out immediately after securing the top to the jar. Each label must contain the following information:

(1) The source of the sample, described as precisely as possible; e.g., "sample, obtained from the water, Baltimore Harbor, 15 yards off port quarter of M/V Searail Express, moored Berth 7, Searail Marine Terminal."

(2) The date and time that the sample was taken.

(3) The name of the person who took the sample.

(4) The name of the person who witnessed the collecting of the sample. If possible, the witness should be from the suspected source. (It should be noted that all witnesses may be called upon to testify concerning where and when a sample was taken, what method was used, the cleanliness of the equipment used, and how it was sealed and labeled.)

Pregummed labels which are resistant to oil and water should be used. The labels can be rubber-stamped in indelible ink, showing the information in plate 74–3–20C.1. These labels are available as GSA stock. Rubber stamps will require local procurement.

The investigator should make all necessary notes in the Water Pollution Incident Report Workbook. Entries should contain comments about how the sample was taken, the exact location where the sample was taken, a diagram showing where the samples were taken, weather conditions, etc.

Prior to shipping samples, insure that the case number and sample number are clearly marked on each sample and the transfer documents.

74–3–20C. CHAIN OF CUSTODY

One of the purposes of taking a sample is to permit chemical analysis and thereby identify the pollutant in the water as positively originating from a specific vessel or facility. Courts have rejected samples, otherwise properly obtained and analyzed, that have been subject to a broken chain of custody. All samples must be maintained in proper custody until orders have been received from competent authority directing their disposition. Precautions should be taken to protect the samples from breakage, fire, alteration, and tampering. It is important that a chain of custody of the samples be properly maintained and recorded, from the time the samples are taken until their ultimate use at a hearing or trial. The chain of custody begins when the sample is taken and *extends* to its ultimate disposal. In order to accomplish this, documentation and accountability are needed. In this regard, a record of time, place, and the name and title of the person taking the sample, and each person handling the sample thereafter, must be maintained and forwarded with the sample. (See the sample chain-of-custody record label in plate 74–3–20C.1.)

The chain of custody must be kept on each individual sample by signing the label on the bottle to transfer custody. Once the unit custodian has taken custody of each bottle and wishes to transfer the set of samples to another unit (i.e., a FOIL or COIL), Form DD-1149 or a similar document detailing the identification of each sample may be used. An initial copy of the transfer document should be kept in the case file, as well as the copy the receiving unit custodian returns to the sending unit.

74–3–20D. STORAGE OF SAMPLES

In the field, the investigator should maintain the samples in his custody and within view whenever possible. During the course of an investigation, it is not always practicable or possible to carry around previously-taken samples. Transfer of custody to a responsible person who will transport the samples to the unit custodian is preferable; however, if the investigator finds it necessary to temporarily store the samples, the bottles may be locked in a vehicle, *provided*:

(1) The keys to the vehicle are in the possession of the investigator(s) and are not given to anyone else during this period.

(2) The samples are protected from direct sunlight and the heat which can build up in a closed vehicle, by wrapping them in several layers of newspaper, a jacket, a blanket or other insulating material, or by placing them in an insulating pouch or a styrofoam cooler.

(3) The vehicle is opened and aired out and the samples transferred to an open area (i.e., out of the trunk) prior to starting the vehicle.

(4) The nature of the case makes it unlikely that someone would want to break into the automobile to tamper with the samples.

(5) The samples are removed from the vehicle and properly stored once the vehicle *or* investigator returns to the unit.

A key part of proper accountability is minimizing access to the samples while in storage. This may be accomplished in several ways. The recommended method is to designate a sample custodian whose function is to insure the proper storage, shipment, analysis, and disposition of samples. All samples should be placed in his custody at the earliest possible time. The samples should be delivered to the custodian directly during working hours and via the duty officer after working hours. As with all custody transfers, care should be taken to document the transfer of custody of each sample from the sampler, to the duty officer, or to the sample custodian on the record attached to the sample. The samples are to be stored in an explosion-proof refrigerator at a temperature of 41–45 degrees F (5 – 7 degrees C). *DO NOT FREEZE*; at temperatures below 40°F (4.5°C) petroleum oil will tend to dewax, which will alter the fingerprint. If no refrigerator is available, the sam-

ples may be stored in a cool, dark, dry, air-conditioned room until transfer to a lab or other unit with refrigerated storage can be accomplished.

The duty officer and the sample storage custodian should be the only ones with access to the storage area. All "in-house" transfers shall be logged on the spaces provided on the sample tag. All transfers outside the unit and all disposals shall be logged on a copy of Form DD-1149 or similar document. Each sample should be individually listed by sample number and source of sample. The reason for using Form DD-1149 is to enable the unit to have a record in the case file of all outside transfers and the disposal of samples.

If samples are to be stored for evidence in court or until disposition of civil proceedings, they shall be kept away from uncessary heat and light. If samples must be saved for an indefinite period, due to the magnitude or sensitivity of a case, the samples should be transferred to the Central Oil Identification Lab (COIL). The chief of the Central Lab shall be contacted directly and his concurrence obtained prior to shipping the samples. Minor cases which are awaiting adjudication and cost recovery should be held at the unit level. If the unit has insufficient storage capacity, the establishment of a district storage capacity or expansion of the unit's storage capacity should be explored prior to using the Central Lab.

74–3–20E. PACKAGING AND TRANSMITTAL OF SAMPLES

Certain information concerning the case is required to properly interpret the weathering of the samples, establish communication with the field unit to gain additional information about the conditions on scene and to document the transfer of the samples.

A letter requesting analysis containing the following information shall be enclosed with a Form DD-1149 inside the shipping container:

(1) Pollution case number (and name if used).

(2) Contact point, name, and phone number for further information.

(3) Wind conditions, air temperature, and other weather conditions (e.g., sunny, overcast, etc.).

(4) Note if case involves seepage of oil through the soil; estimate distance or other pertinent information.

(5) Possible contamination sources (i.e., sewers, chemical plants, etc.).

(6) If all samples collected are not being forwarded for analysis, explain.

(7) Other relative information.

In addition, a description of the samples should be provided with the letter enclosed with the Form DD-1149 identifying the sample number, indicating whether the sample is a spill or suspected source, and providing a description of the sample (including the location of the material at the time it was sampled). Samples of a request-for-analysis letter and Form DD-1149 are provided in plates 74–3–20E.1 and 74–3–20E.2.

Shipment of samples must be in accordance with U.S. postal regulations and Department of Transportation regulations (limited quantity shipments, 49 CFR).

Combustible liquids (#2 diesel oil and higher flash point liquids) can be shipped through the mail if properly packaged and identified. Flammable liquids (flash point lower than #2 diesel oil) must be shipped as limited quantity shipments by commercial carriers (e.g., United Parcel Service).

When in doubt as to the flash point of the liquid in the samples, transfer as limited quantity shipments by common carrier.

Important considerations when transferring samples are:

(1) Each carton must contain no more than 16 fluid ounces of oil in all the samples.

(2) Each jar must be no more then 2/3 full to allow for expansion.

(3) Sufficient absorbent to take up the total liquid content of the samples must be provided.

(4) The carton must be labeled with the proper shipping name of the contents and the designation, limited quantity.

Common carriers may provide labels to designate shipments of limited quantity, but the shipper must designate the proper shipping name and the quantity.

For further information on the packaging and shipment of oil and other hazardous chemicals, refer to U.S. Postal Service Pub. 52 and Title 49 CFR.

The following standard packaging shall be used by all Coast Guard units when transferring oil or other substances as samples for analysis between units: Sample jars shall be properly labeled with the sample number, case number, and other identification. Also, a gap should be left between the labels so that the liquid level of the sample can be seen without opening the jar. The lid should be sealed by wrapping tape around the gap between the lid and the jar. This will keep the lid from becoming loosened and prevent the release of vapors or liquid. Wrap each bottle separately to cushion it or place two bottles in a standard mailing tube.

A heavy-duty corrugated shipping container shall be procured and lined with a plastic bag large enough to gather at the top when the box is full. A 2 inch layer of vermiculite or other absorbant cushioning material shall be poured in; then the wrapped jars or tubes shall be packed, with approximately 1 inch of cushioning material on the sides and top of the samples. The plastic liner shall be sealed, and a Form DD-1149 transfer document and the request-for-analysis letter shall be placed in the box. Reinforced tape shall be used to seal the top and bottom of the carton, the top shall be labeled "this end up" and the samples shall be shipped or mailed with registered return receipt requested.

▼74–3–25. SAMPLE ANALYSIS

Investigating officers should not routinely rely completely on the comparative sample analysis to substantiate the source of a discharge. Samples are circumstantial evidence that must be connected with other facts such as:

(a) Not only do the samples match, but

(b) It was the only ship in the area;

(c) It is the only facility that handles this product;

(d) A certain amount of oil is unaccounted for;

(e) Traces of oil were found on the PV valve flame screen;

(f) Evidence of a recent spill and subsequent cleanup was apparent;

(g) There were buckets of oil-saturated sand, shovels, and other materials present on deck, etc.

Sample analysis should not normally be conducted when there is sufficient evidence for these purposes without analysis reports. When the analysis of samples is needed to assist in the investigation of a pollution case, the complete set of samples should be sent to a Field Oil Identification Laboratory (FOIL) or the Central Oil Identification Laboratory (COIL) according to the following criteria. The FOIL units are designed to provide a quick response to the needs of the investigative unit, and FOIL results provide substantial support when incorporated with other evidence in pollution cases. The FOIL is also used to screen out non-match suspected source samples when the case involves a large number of samples.

Cases should be sent to COIL if:

(a) A FOIL unit is not available to your unit.

(b) Only a small amount of oil, less than 2 tablespoonsful, in one or more of the samples is available for analysis. (When in doubt, send to COIL.)

(c) The spill is gasoline, kerosene, or other very volatile petroleum oil.

(d) The suspected polluter is uncooperative and a hearing or legal action is likely.

(e) The samples are the only evidence which tie the spill to a source.

(f) The FOIL results need to be verified.

Cases involving non-petroleum spills should normally be sent to COIL. However, there are special shipping instructions and precautions to be taken depending on the nature of the pollutant. In these cases, COIL should be contacted by telephone for instructions.

Many of the EPA regional laboratories provide sample analysis services for the Coast Guard either free of charge or for a nominal fee. While this procedure is economically advantageous and technically sound, several difficulties have evolved when relying exclusively on these laboratories:

(a) Immediate analysis is often difficult to obtain because of the time required to transport the samples from discharge sites to distant EPA regional laboratories, and to return the analysis data. Certain situations, such as the location of an unknown source of a continuing discharge or the prevention of scheduled departure of a suspect vessel, demand prompt sample analysis.

(b) The capacity of some EPA regional laboratories has proven inadequate to handle the volume of work submitted by the Coast Guard, and backlogs of one to several months have delayed the processing of routine samples. Postponement of legal proceedings may result. This situation exists in part because analytical services are often being requested unnecessarily, when the pollution source is known and adequate evidence has been obtained for subsequent enforcement actions.

(c) Due to travel times and distances, it is difficult for these laboratories to sacrifice the analyst for appearance at hearings to present the result of sample analysis.

Most commercial and university-research institute laboratories are not equipped to properly analyze oil samples. In the past, demand has not justified the purchase of equipment for the recommended identification techniques and a lab will tend to rely on one method such as infrared spectrocopy for analysis. Commercial or other independent labs are *not* to be used without coordination through Commandant (G-WEP-3).

▼74–3–30. SAMPLE DISPOSAL

Ideally, samples should be held until the case is adjudicated and all penalties and cleanup costs are received. As a practical matter, the storage of samples for extended periods becomes cumbersome and often impossible for field units due to space limitations. Improper storage of samples is not the answer to this dilemma. Improperly stored samples are, at best, a safety hazard and probably are seriously limited in their usefulness. Which samples are to be destroyed first shall be determined by a number of parameters. Among them are:

(a) The sensitivity or importance of the case.

(b) The importance of sample analysis to the case.

(c) The civil penalty and cost-recovery status of the case. (If the removal costs and/or the civil penalty are unpaid, the concurrence of the district legal officer *must be obtained* prior to disposal.)

Requests to dispose of samples should be made to the district commander (m) by Rapidraft letter. A copy of the approval letter should be filed with the case and a notation made when the samples are disposed of.

Disposal of samples may be conducted at any approved waste oil disposal site. If the unit has an oily water separator for small-boat use, the liquid waste from oil samples and analysis may be processed through it without hurting the coalescers, *provided* that acid content is held to the amount contained in the laboratory reagents. The empty jars may then be

disposed of in any trash system. Full sample bottles may be put into the regular trash disposal system, *provided* they will not leak oil while awaiting pickup. Used bottles are never to be left in an indoor waste basket, but may be placed in an outside "dumpster" or trash can. An effort should be made to conduct sample disposal on trash pickup days.

▼74–3–35. OTHER REAL EVIDENCE

In some instances, it may be possible for the investigator to obtain additional physical evidence. This might include a section of rotted hose, a broken valve, a section of rusted hull plating, etc. This evidence should be labeled with the same information and maintained in the same manner as outlined for liquid samples. All information concerning the location(s) from which the evidence was taken, description, etc., should be listed in the Water Pollution Incident Report Workbook.

PLATE 74-3-1A.1
PHOTOGRAPHIC DOCUMENTATION

No._____Case No._____
Date_____Time_____
Vessel/Facility_____
_____
Location_____
_____
Description_____
_____
_____
_____
_____
_____
Photographer_____
Witness_____
Camera Type_____Setting_____
Film Type_____Process_____
Remarks_____

NOTE: "Not Applicable (N/A)" will be placed in all spaces not required to be filled out, or for which information is unnecessary.

PLATE 74-3-5A.1

POLLUTION INCIDENT SUMMARY OF STATEMENT

THE FOLLOWING IS A SUMMARY OF AN ORAL STATEMENT MADE BY

_____ OF _____ .

THIS STATEMENT WAS MADE TO _____ ON

_____, CONCERNING A POLLUTION INCIDENT
(time/date)

WHICH OCCURRED AT _____, AT _____ ON _____.
(location) (time) (date)

_____
(signature)

WITNESSED BY: _____
(signature)

PLATE 74-3-5B.1

SAMPLE PRIVACY ACT STATEMENT

The investigator of this pollution incident wishes to obtain your name, address, telephone number, and place of employment. In order for the investigator to collect this private information, the Privacy Act (5 U.S.C. 552a(e)(3)) requires that you be informed concerning: the authority of the investigator to collect this information; the primary purposes for which the Coast Guard will use this information; any secondary purposes for the information; and whether your disclosure of this information is voluntary or required by Federal law.

1. Authority. The investigator, as a Federal law enforcement officer (14 U.S.C. 93e and E.O. 11735 of August 3, 1973), is requesting this information pursuant to the authority contained in the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321 et seq), and regulations written to enforce this law.

2. Principal Purposes for this Information. The statement which you provide the investigator will be used to determine the cause of this pollution incident and establish the identity of the discharger. Your name, address, and other personal information is needed to enable the investigator to contact you if more information is needed or to clarify aspects of your statement. Your identity and contact information is needed in order to use your statement at the civil and criminal proceedings which may result from this investigation.

3. Other Purposes for this Information. No other uses for this information are intended.

4. The disclosure of your personal information is voluntary.

PLATE 74-3-5E.1

SAMPLE COAST GUARD OBSERVER'S STATEMENT

STATEMENT MADE BY:	AM2 I.M. RIBALDFELLOW
TIME OF OBSERVATION:	1305R, 27 MAR 79
SIZE AND DESCRIPTION OF DISCHARGE:	200x200' thick black oil, heavy sheen for 2 miles
LOCATION OF DISCHARGE:	Petrobelch Refinery, Watadump, MD
SOURCE:	M/V TRANSWORLD DEPOSIT
WEATHER CONDITIONS:	Clear, VSB 7-10, wind ENE 5-10kts
TIDE:	N/A
DIRECTION OF CURRENT:	SSE 1/2 kt
TYPE OF POLLUTANT:	Petroleum
EXPERIENCE OF OBSERVER:	2 years as observer on pollution overflights (approx. 40 flights)

STATEMENT:

I was an aircrew member aboard aircraft CG-1946 during a routine overflight of Watadump Harbor on 27 March 1979. At approximately 1305 local time, the flight passed over the Petrobelch Refinery, located at the mouth of the Megacrud Creek where it empties into the Watadump River. At that time I noticed a thick black layer of oil near a vessel at the refinery. The pilot brought the aircraft into a hover and descended for a closer look. The name of the vessel was observed to be the TRANSWORLD DEPOSIT, homeport French Frigate Shoals. The thick, black slick was located on the outboard (starboard) side of the vessel and extended from the forward bulkhead of the after deckhouse to midships, and extended an equal distance out from the slick approximately 2 miles down-current. A dark streak of oil led down the side of the vessel from the manifold area on the starboard side to the slick. Crew members were observed in that area turning valves and working on flanges. We reported the spill to MSO Cleanemup via radio and continued the patrol after taking photographs.

(signature) _____

(date) _____

PLATE 74-3-5F.1

POLLUTION INCIDENT STATEMENT

STATEMENT MADE BY: _____

TIME & DATE OF INCIDENT _____

TIME & DATE OF STATEMENT _____

_____

WITNESSED BY: _____

PLATE 74-3-5F.2

POLLUTION INCIDENT SUSPECT STATEMENT

STATEMENT MADE BY: _____

TIME & DATE OF INCIDENT: _____

TIME & DATE OF STATEMENT: _____

I, _____, understand that I have the right to remain silent - that is, to say nothing at all. I understand that, if I do not exercise my right to remain silent, anything I say may be used against me in a Federal or state court or administrative proceeding. I further understand that I may have a lawyer present with me during questioning, and that I may consult with a lawyer before any questions are asked of me. This lawyer may be retained by me or, if I am unable to afford my own lawyer, one will be provided for me without charge.

I understand that if I do not exercise these rights and I answer questions, I may change my mind at any time after the questioning has begun, after which no more questions will be asked of me. Understanding all of these rights, and having received no threats, or promise of reward or immunity, I voluntarily waive my rights as stated above and make the following statement:

_____
(signature)

WITNESSED BY: _____

PLATE 74-3-15B.1

A standard sampling kit has been developed for Coast Guard-wide use. Procurement and distribution of an initial issue will be made to field units in early FY 80. In the interim, field units requiring such items are encouraged to utilize the following list and supply data when ordering:

Sample Kit Carrier: Nalgene® pint safety bottle carriers. Available from scientific supply houses carrying "Nalgene®" labware on GSA contract GS-DOS-86114.

Sample Bottles w/ Mailer Tube: 4 oz. glass sampling bottles with Teflon®-lined screw tops. Cardboard slip-fit mailing tube holds two bottles snugly.

A set of two bottles with mailer tube is available through:
Sunshine Chemical Corporation
Box 17041
West Hartford, CT 06117
Phone (203) 232-9227
ATTN: Mr. Stephen Kaufman

Disposable Gloves: GSA stock NSN 6515-00-477-6722.
Tongue Depressors: GSA stock NSN 6515-00-753-4533.
Twine, Cotton, 6-ply: GSA stock NSN 4020-00-233-5984.
Labels, White Adhesive, 2x3¼", water- and oil resistant: GSA stock NSN 7530-00-054-1575.
Masking Tape, 1" wide, 60 yd/roll: GSA stock NSN 7510-00-266-6712.
Paper Tape, Reinforced, 3" wide, 2-ply: GSA stock NSN 8135-00-598-6097.
Plastic Liners (for shipping cartons), 24x35" flat bag, .0015" thickness: GSA stock NSN 8105-00-702-7175.
Shipping Carton, Heavy-duty, Weather-resistant, Corrugated, 10x10x10", Style RSC: GSA stock NSN 8115-00-190-4959.
Vermiculite (packing material) -- available at gardening supply centers or plant nurseries.

PLATE 74-3-20C.1

SAMPLE LABEL FORMAT

(name & address of unit)

CHAIN OF CUSTODY

Signature	Date/Time	Comments

CASE# _____ SAMPLE# _____
TIME _____ DATE _____

SAMPLER _____

WITNESS _____

SOURCE OF SAMPLE _____

PLATE 74-3-20E.1

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS
U.S. COAST GUARD

•16450
9 April 1979

•From: Captain of the Port of Philadelphia
To: Supervisor, U.S. Coast Guard Central Oil Identification Laboratory

Subj: Sample analysis; request for

1. Request analysis of the six oil samples identified on the attached transfer document for case number 124-79 (Crystal Harbor).

2. Questions concerning this case should be directed to LT R. BROWN at COTP Philadelphia, FTS #488-4713.

3. Spill samples 1 and 2 were collected from the fresh water creek feeding into Crystal Harbor; spill sample 6 was taken from the shoreline one-half mile southwest of the mouth of the creek.

4. An estimated 750 gallons of oil were spilled and cleanup costs are estimated at $5200.00.

5. Wind conditions varied from very windy (35 knots) at the time of the discharge to calm on the following morning.

6. Air temperature (--the critical breakdowns are: below 32F; 32-60F; 60-85F; 85-95F; above 95F).

7. Other weather conditions (e.g., overcast, bright sun, rain, snow, etc.).

8. The spill did/did not involve seepage through the soil. (If it did, indicate the distance the pollutant traveled from the suspected source)

9. List any possible non-petroleum contaminant sources located in the general spill area (e.g., sewage outfalls, chemical plants, etc.).

10. Are all samples for the case being forwarded to COIL? If not, explain the reason (e.g., being pre-screened at a FOIL).

11. Any additional information about the samples or the overall situation which may be helpful to lab personnel.

PLATE 74-3-20E.2

SHIPPING CONTAINER TALLY → 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50

REQUISITION AND INVOICE/SHIPPING DOCUMENT

SHEET NO. 1 / NO. OF SHEETS 1	5 REQUISITION DATE: 9 April 1979
6 REQUISITION NUMBER: COTP Phila 124-79	
1 FROM: Captain of the Port of Philadelphia c/o USCG Base, Gloucester City, NJ 08030	7 DATE MATERIAL REQUIRED: ASAP
	8 PRIORITY:
2 TO: Supervisor Central Oil Indentification Laboratory OR Nearest Field Oil Identification Laboratory c/o USCG Research & Development Center Avery Point, Groton, CT 06340	9 AUTHORITY OR PURPOSE:
	10 SIGNATURE: R.J. BROWN, LT, USCG, By direction
	11a VOUCHER NUMBER AND DATE / b
3 SHIP TO - MARK FOR	12 DATE SHIPPED: 9 April 1979
	13 MODE OF SHIPMENT / 14 BILL OF LADING NUMBER
	15 AIR MOVEMENT DESIGNATOR OR PORT REFERENCE NO.

4 APPROPRIATION AND SUBHEAD	OBJ CL	BUR CONT NO	SUBAL LOT	AUTHORIZATION ACCT'G ACTIVITY	TRANS TYPE	PROPERTY ACCT'G ACTIVITY	COUNTRY	COST CODE	AMOUNT

ITEM NO (a)	FEDERAL STOCK NUMBER DESCRIPTION AND CODING OF MATERIAL AND/OR SERVICES (b)	UNIT OF ISSUE (c)	QUANTITY REQUESTED (d)	SUPPLY ACTION (e)	TYPE CONTAINER (f)	CONTAINER NOS (g)	UNIT PRICE (h)	TOTAL COST (i)
	Six samples enclosed for oil sample analysis for COTP Philadelphia (Case No. 124-79):							
1	Taken from water Pier 15 at Crystal Harbor - spill sample.							
2	Taken from water Pier 15 at Crystal Harbor - spill sample.							
3	Taken from bilges of M/V NATHAN HALE - suspect sample.							
4	Taken from bilges of M/V NATHAN HALE - suspect sample.							
5	Taken from deck of M/V NATHAN HALE - suspect sample.							
6	Taken from beach at Crystal Beach(sand in sample) - spill sample.							

Samples shipped by: _____
Date: _____

Samples received at COIL/FOIL by: _____
Date: _____

Assigned COIL/FOIL Case No. _____

16 TRANSPORTATION VIA MATS OR MSTS CHARGEABLE TO

17 SPECIAL HANDLING

RECAPITULATION OF SHIPMENT

18	TOTAL CONTAINER	TYPE CONTAINER	DESCRIPTION	TOTAL WEIGHT	TOTAL CUBE
ISSUED BY					
CHECKED BY					
PACKED BY					
			← TOTAL →		

RECEIPT

19	DATE	BY	
CONTAINERS RECEIVED EXCEPT AS NOTED			SHEET TOTAL
QUANTITIES RECEIVED EXCEPT AS NOTED	DATE	BY	GRAND TOTAL
POSTED	DATE	BY	20 RECEIVER'S VOUCHER NO

DD FORM 1 MAR 59 1149 (9-PT)

51 52 53 54 55 56 57 58 59 60 61 62 63 64 65 66 67 68 69 70 71 72 73 74 75 76 77 78 79 80 81 82 83 84 85 86 87 88 89 90 91 92 93 94 95 96 97 98 99 100

REPLACES EDITION OF 1 MAY 58 WHICH MAY BE USED

S/N 0102-011-1801

PART 74–4—REPORTS

▼74–4–1. GENERAL

A report of any pollution investigation made to support a civil penalty action or a criminal action for non-notification shall be forwarded to the district commander, and should include a narrative summary of events, statements of witnesses, photographs, the sample analysis report, or any other evidentiary material necessary for the case. Negatives corresponding to the photographs of a particular case shall be retained with the file at the unit. Samples collected during the investigation, but not forwarded for analysis because of other sufficient evidence, should be identified in the report but retained at the unit until the case is closed. Samples should be stored in accordance with the guidelines outlined in section 74–3–20D of this manual.

▼74–4–5. POLLUTION REPORT MESSAGES (POLREPS)

The Coast Guard Situation Report (SITREP) format shall be used for Pollution Reports (POLREPS). Utilization of this format has the advantage that a large number of Coast Guard personnel are already familiar with it. District commanders may authorize the inclusion of Pollution Incident Reporting System (PIRS) coding information in the initial POLREP. POLREPS are to be submitted by the Federal on-scene coordinator (OSC) to the district commander and the Regional Response Team (RRT) in accordance with the instructions contained in the Regional Contingency Plan and district OPLAN.

The National Response Center (NRC) shall be made an information addressee on all POLREPS submitted by OSC's. As a minimum standard, POLREPS shall be submitted by the RRT to the National Response Team (NRT) in a timely manner as developments occur and at 1600 on each day of the operation for all major, potentially major, and other significant or unusual pollution incidents.

The requirement for daily submissions may be relaxed for extended operations in which there is no significant difference between each day's operations. In this case, summaries of the week's efforts (total funds expended, etc.) should be substituted for the daily reports. Negative reports or "no change" messages are not acceptable. The need for timely submission of POLREPS cannot be overemphasized.

All groundings, collisions, rammings, fires, explosions, and other casualties which do not initially result in a discharge, but which affect or *may* affect the structural integrity of a vessel, shall be treated as potential pollution incidents. The degree of the threat (minor, medium, major) shall be determined by the location of the vessel(s) (inland, coastal) and the amount of oil or hazardous substance carried on board. If it is a potential major or otherwise significant discharge, daily POLREPS shall be submitted as described above.

When the spill being reported is an Outer Continental Shelf (OCS) related incident as defined in Title III of the Outer Continental Shelf Lands Act, amendments of 1978, the term "OCS Oil" shall be used in the subject line of the POLREP to alert personnel to the potential usage of the Offshore Oil Pollution Compensation Fund.

Plate 74–4–5.1 outlines the general POLREP format. Plates 74–4–5.2 and 74–4–5.3 contain two POLREP examples.

▼74–4–10. WATER POLLUTION VIOLATION REPORT FORMS

74–4–10A. GENERAL

Form CG-3639 (Water Pollution Violation Report) and Form CG-3639A (Water Pollution Incident Report Workbook) are to be used for the reporting of all water pollution incidents investigated by the Coast Guard. Form CG-3639A has been revised to include a new section M to assist in

the documentation of pollution discharges sighted by aircraft.

Form CG-3639A is to be used by the Coast Guard investigating officer(s) to direct and facilitate the collection of information at the scene of the discharge for the subsequent completion of Form CG-3639. Some key points for the investigating officer to keep in mind while conducting the investigation are:

- Be inquisitive.
- Look for and list all the facts surrounding the incident.
- Avoid irrelevant issues.
- Record the actual violation and/or indicate a failure to notify.
- Concentrate on developing the elements of the discharge. (See section 74–2–5B for a description of the elements.)
- List all photographs and samples taken and describe each one.
- Investigate all possible sources (see section 74–3–15A).
- Describe fully the cause of the incident, and identify the *who, what, when, why*, and *how* of the incident.
- Interview any persons who may possess knowledge of the discharge (e.g., riparian land owners, marine operators, fishermen, boaters, longshoremen, etc.).
- Note any suspect vessels or facilities.
- Track or backtrack possible sources of the pollutant, using knowledge of the wind and current to estimate the location of possible sources.
- Collect samples from the water and from all possible sources (see section 74–3–15A).
- Sketch the layout of the area.

The Water Pollution Incident Report Workbook is the investigator's working document. It should be legibly and plainly handwritten in ink. Statements such as, "At 1800 on 1 July 1972, having been informed by the duty officer that he had received a report regarding a possible discharge, I proceeded by USCG motor vehicle #3764 to the vicinity of . . ." *are unnecessary*.

Since the Workbook will not be forwarded to the hearing officer as part of the case file, insure that all observations, determinations and facts material to the case are included in the narrative summary on Form CG-3639.

For more specific information concerning investigation techniques, refer to chapter 70 of this manual.

74–4–10B. AVAILABILITY OF FORMS

Existing supplies of the old Form CG-3639A shall be exhausted prior to using the revised form. Additional forms may be obtained from the Brooklyn Supply Center, by citing stock number 7530–01-GF2–5120 for Form CG-3639A.

74–4–10C. GUIDE TO PREPARING THE WATER POLLUTION VIOLATION REPORT, FORM CG-3639

The Water Pollution Violation Report (Form CG-3639) must be filled out in its entirety. Every effort must be taken to insure than the information gathered is complete and accurate. The major emphasis of the report is to first *prove* the elements of a violation, by whatever evidence is available (i.e., statements, photographs, samples, etc.). After the violation is established, the report should present the circumstances surrounding the cause of the discharge, all mitigating factors such as cleanup, and any actions taken to insure that the discharge is not repeated.

The information contained in the Water Pollution Incident Report Workbook as a result of a pollution investigation should be used to complete the Water Pollution Violation Report. Although most of the items on the Water Pollution Violation Report are self-explanatory, the following information is provided to standardize pollution incident reports. Each part of the violation report is addressed separately.

PART I—DISCHARGE DATA:

Item 2—Location. An accurate delineation of the position on the vessel or facility from which the discharge occurred.

Item 3—Body of Water. Name of the waterbody the pollutant entered, as described on a current edition of a chart/map. If the waterbody is not one of the navigable waters of the United States in the traditional sense, (i.e. as defined in 33 CFR 2.05–25(a)), but is a tributary thereof, state the connecting path to the traditionally navigable water. If the waterbody is neither navigable nor a tributary to a navigable waterway, document the connection to interstate commerce or other source of Federal jurisdiction.

Item 4—Material. Identify the pollutant specifically. Use generic terms such as diesel oil or crude oil. Do not use brand names. Utilize the text to expand and clarify the specific commodity.

Item 5—Quantity. Use gallons (gals.), barrels (bbls.), or pounds (lbs.). Use the text to show the gauged units and the conversion to the above units.

Item 6—Source. This is the physical point or site from which the pollutant escaped (e.g., #2 port fuel tank vent on the M/V *Sea Foam*). The text of the investigative report should detail the path of the pollutant from the source to the water, including any intervening vessels or facilities which the pollutant flowed across or through.

Item 7—Cause. The situation or error which caused the discharge. When applicable, this should correspond to the wording in the *PIRS Manual* (CG-450), section II-A-9.

Item 8—Discharger. The owner or operator of the source of the discharge. This should correspond with blocks III-5 or IV-8 indicated below.

PART II—REPORTING DATA:

This information should be transcribed from the unit notification log. The person actually sighting the pollutant should be identified. Note if reported from a vessel or an aircraft, and whether the reporting party is notifying on behalf of the spiller.

PART III—FACILITY DATA:

Include the information in items 1, 2, and 3 both in cases where the discharge was from a vessel moored at a facility, as well as in cases when the discharge was from a facility.

PART IV — VESSEL DATA:

Complete and accurate information is essential here, especially when the vessel is of foreign registry. Use the following abbreviations for vessel types:

- Tank Barge – T/B
- Tankship – T/S
- Container Vessel – C/V
- General Cargo Vessel – C/S
- Fishing Vessel – F/V
- Passenger Vessel – P/V
- Research Vessel – R/V
- Pleasure Craft – P/C
- Towing Vessel – T/V
- General Service or Multi-Service Vessel – M/V

PART V- WITNESSES AND OTHER PERSONS MENTIONED IN THE REPORT:

Provide complete addresses and telephone numbers. Expand on the connection with the case in the text, if required, and note the enclosure if a statement is provided. The names of Coast Guard investigators should be included in this part, as well as *all* persons whose names appear in the narrative.

PART VI—SAMPLES:

Complete identification shall be shown for each sample. Note the enclosure number of the analysis report, if included.

PART VII- PHOTOGRAPHS:

Detailed information, as per subpart 74–3–1 of this manual, shall be included with each photograph.

PART VIII- LIST OF ENCLOSURES:

List all witness statement reports, sketches, charts, supplemental violation reports (Form CG-2636), or any other supportive or clarifying documentation. All enclosures of more than one page shall be labeled "page _____ of _____" using the appropriate numbers for each.

PART IX—INVESTIGATOR's SUMMARY:

This part of the report contains the detailed investigative *facts*. It is normally prepared as a chronological summary of the pertinent events and actions taken by the parties involved prior to, during, and after the discharge. All information presented must be either a direct observation by the investigator or supported by documentary or other forms of evidence. Any cleanup efforts or other attempts to mitigate the effects of the discharge should be noted in some detail, unless an OSC report is required. If an OSC report is also to be submitted, a clear succession of events leading to Federal response is required. Any additional pages required for the summary should be attached and marked as enclosure (1).

Determinations made by the investigator, such as which vessels or facilities were possible sources and the reasoning for the determination (see section 74–3–15A), or why cleanup or other mitigation was not feasible, shall be included in the narrative.

If any violation reports (Form CG-2636) are prepared and attached as enclosures, the violations should be clearly cross-referenced in each report. Also, if R.S. 4450 or other actions are taken, make sure to cross-reference the case numbers.

PART X- CLEANUP OR OTHER MITIGATION ACTION:

Cleanup and mitigation activities or non-activity can now be used as a factor in determining the gravity of a discharge (see chapter 13 of this manual). A brief account of the cleanup/mitigation activities and whether they are continuing should be provided. Statements should indicate whether or not the discharger undertook cleanup, when cleanup started, how cooperative the discharger was during cleanup, and the amount discharged vs. the amount removed.

PART XI—REPORTED IMPACT:

Note here any damage immediately observed by the investigator(s), and reference any enclosures which document damage to the environment, such as U.S. Fish and Wildlife fish kill reports or other similar reports. If no damage is readily apparent during the course of the investigation, a statement to that effect shall be made (e.g., "None Observed").

PART XII—ACTION TAKEN TO PREVENT RECURRENCE:

Note changes in equipment or procedures accomplished or any other actions taken to eliminate the cause of the discharge.

(See plate 74–4–10C.1 for an example of a completed Water Pollution Violation Report.)

▼74–4–15. CLASSIFICATION OF REPORTS

Reports of pollution incidents are not classified. All requests for information should be treated in accordance with part 8–7 (Information Access) of this manual.

74–4–20. UTILIZATION OF FORMS AND INVESTIGATIVE MATERIAL

The disposition chart shown on plate 74–4–20.1 provides a guide for the disposition of Forms CG-3639 and CG-3639A, and other associated investigative material.

PLATE 74-4-5.1

GENERAL POLREP FORMAT

(PRECEDENCE)
FM
TO
INFO
BT
UNCLAS
TO MEP
POLREP (#) (type pollutant) (magnitude of spill*)
(name of vessel or facility believed to be source) (waterway/s involved)
(unit case number) (Federal fund number, if any)

1. SITUATION:
A. (local time and notification information). Give names and telephone number or radio frequency.
B. (local time when investigator is on scene). Give description of spill and initial measures to clean up.
C. (on-scene weather conditions).
2. ACTION TAKEN:
A. List chronologically every major action taken by the Coast Guard
B. with regard to the spill. For Federally-funded response operations, the latest estimate of funds expended shall be included.
3. FUTURE PLANS AND RECOMMENDATIONS:
A. (Give appropriate information.)
B.
4. CASE PENDS/CLOSED. (NO) VIOLATION REPORT TO FOLLOW.
BT

(*potential, minor, medium, or major.)

PLATE 74-4-5.2

SAMPLE POLREP ONE

P3123ØØZ JUL 79
FM COTP NEW YORK
TO CCGD3
INFO COGARD NATIONAL RESPONSE CENTER WASHINGTON DC
BT
UNCLAS
TO MEP
POLREP ONE NR 2 FUEL OIL MINOR SPILL
EMPIRE CORP., SHELLBANK CREEK, NY
PCN-NY-215-79

1. SITUATION:
A. 311315R MR. EDWARD HAROLD, A PRIVATE CITIZEN, NOTIFIED LAS SHELLBANK CREEK OF AN OIL SIGHTING BY THE BELT PARKWAY BRIDGE.
B. 31132ØR LAS SHELLBANK CREEK NOTIFIED COTP NEW YORK.
C. 31143ØR CG INVESTIGATOR O/S LOCATED APPROX 1ØØØ GAL NR 2 FUEL OIL IN SHELLBANK CREEK, IN VICINITY OF EMPIRE CORP., BROOKLYN, NY. SOURCE OF OIL IS A HOLED TANK AT THE FACILITY, APPARENTLY CAUSED BY CORROSION. TANK IS NOW EMPTY.
D. WX: TEMP 86F, WINDS 5 NW, SEAS CALM, VSB 5.

2. ACTION TAKEN:
A. 31133ØR CONTACTED MR. I.M. SPILLER, OWNER OF EMPIRE CORP. HE ASSUMED FINANCIAL RESPONSIBILITY FOR SPILL.
B. EMPIRE CORP. HIRED STUPENDOUS CLEANUP COMPANY FOR CLEANUP. O/S 3115ØØR.
C. 31153ØR NOTIFIED EPA AND STATE OFFICIALS.
D. 31173ØR INVESTIGATOR BM2 A.C. DOOZEY RETURNED COTP NEW YORK.

3. FUTURE PLANS AND RECOMMENDATIONS:
A. MONITOR CLEANUP. ESTIMATE THREE(3) DAYS TO COMPLETE.

4. CASE PENDS.
BT

PLATE 74-4-5.3

SAMPLE FINAL POLREP

PØ318ØØZ AUG 79
FM COTP NEW YORK
TO COGD3
INFO COGARD NATIONAL RESPONSE CENTER WASHINGTON DC
BT
UNCLAS
TO MEP
POLREP FIVE AND FINAL NR 2 FUEL OIL MINOR SPILL
EMPIRE CORP., SHELLBANK CREEK, NY
PCN-NY-215-79

1. SITUATION:
A. Ø3123ØR 16ØØ GAL POLLUTANT REMOVED. 17ØØ FT SHORELINE CLEANED. CLEANUP OPERATIONS COMPLETED.
B. FROM 31 JUL THROUGH Ø3 AUG CONTRACTOR HAD ONE(1) FOREMAN, TEN (10) LABORERS, TWO (2) VACUUM TRUCKS, TWO(2) 1½-TON DUMP TRUCKS, AND 6ØØ FT BOOM O/S.
C. WX: TEMP 83F, WIND 3 W, SEAS CALM, VSB 4.

2. ACTION TAKEN:
A. RESTORED PROPERTY DAMAGED DURING REMOVAL EFFORTS.
B. APPROXIMATELY $12,ØØØ EXPENDED.

3. FUTURE PLANS AND RECOMMENDATIONS:
A. SUBMIT OSC REPORT AND VERIFY INVOICES.

4. CASE CLOSED. VIOLATION REPORT TO FOLLOW.
BT

PLATE 74-4-10C.1

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-3639 (Rev. 6-79)

WATER POLLUTION VIOLATION REPORT

INSTR: *Prepare in triplicate. Retain one for case file. Submit original and copy.*

REPORTING UNIT	DATE OF VIOLATION	CASE NUMBER
Marine Safety Office, Baltimore, MD	11 Dec 76	PCN-BA-104-76

PART I – DISCHARGE DATA

1. TIME OF OCCURRENCE	2. LOCATION
0815 EST	Pier 4, Pratt St., Baltimore, Maryland
3. WATER BODY	**4. MATERIAL**
Patapsco River, Baltimore Harbor	No. 6 Fuel Oil
5. QUANTITY	**6. SOURCE**
Approximately 20 gallons	No. 7 deep tank vent on M/V SILVER PEARL
7. CAUSE	**8. DISCHARGER**
Overfilling of No.7 deep tank	SILVER LINES, LTD.

9. REMARKS

Two bbl of oil spilled on deck of M/V SILVER PEARL. 20 gal entered water.

PART II – REPORTING DATA

1. NAME OF PERSON REPORTING	2. ADDRESS OF PERSON REPORTING
Mr. Casmir Majewski, Dispatcher	Majewski Towing Service, 4518 N. Seminole, Baltimore, MD
P/N (301) 473-2175	
3. GOVERNMENT AGENCY RECEIVING REPORT	**4. DATE/TIME OF REPORT**
U.S. Coast Guard	11 December 1976, 0820 EST

5. WAS THE PERSON REPORTING THE INCIDENT EMPLOYED BY OR ACTING IN BEHALF OF THE VIOLATOR?
☒ YES ☐ NO

6. NOTIFICATION PASSED VIA ☒ NRC ☐ OTHER _____

7. OTHER AGENCIES NOTIFIED	8. OCMI NOTIFIED (Time/Date)
EPA Region III, Maryland Dept. of Environment	11 December 1976, 0820 EST

9. REMARKS

NONE.

PART III – FACILITY DATA

1. NAME OF ONSHORE/OFFSHORE FACILITY	2. ADDRESS OF ONSHORE/OFFSHORE FACILITY
Pier 4	Port of Baltimore 2137 7th St., S.W. Baltimore, Maryland 21327
3. TYPE OF FACILITY	**4. PERSON-IN-CHARGE**
General Cargo	N/A
5. NAME OF OWNER/OPERATOR	**6. ADDRESS OF OWNER/OPERATOR**
N/A	N/A

7. REMARKS

NONE.

PART IV – VESSEL DATA

1. NAME OF VESSEL	2. NATIONALITY	3. CALL SIGN/OFFICIAL NO.
M/V SILVER PEARL	LI	MX7H
4. GROSS/NET TONNAGE	**5. FUEL/CARGO CAPACITY**	**6. HOME PORT** / **7. VESSEL TYPE**
1571/1355	740 bbl	Monrovia, Liberia / Cargo
8. NAME OF OWNER/OPERATOR	**9. ADDRESS OF OWNER/OPERATOR**	
Silver Lines, Ltd.	1 World Trade Center, Suite A490B New York, NY 10005	
10. NAME OF LOCAL AGENT	**11. ADDRESS OF LOCAL AGENT**	
R.L. Hempland Co., Inc.	1932 Red Cedar St. Baltimore, Maryland 21226	
12. MASTER	**13. LICENSE/DOC. NO.**	**14. PERSON-IN-CHARGE** / **15. LICENSE/DOC. NO.**
William A. Brown	627-379(LI)	Ptarick O'Malley / 231-792(LI)
16. CERTIFICATE OF FINANCIAL RESPONSIBILITY *(Number and expiration date)*	**17. OCMI ACTION**	**18. OCMI FILE #**
04697, April 1978	Letter of Warning	16722/242/REM

19. REMARKS Mr. O'Malley is second mate of M/V SILVER PEARL. Subj Vsl taking on bunkers from T/B 902 at time of discharge.

PLATE 74-4-5.3

SAMPLE FINAL POLREP

P031800Z AUG 79
FM COTP NEW YORK
TO COGD3
INFO COGARD NATIONAL RESPONSE CENTER WASHINGTON DC
BT
UNCLAS
TO MEP
POLREP FIVE AND FINAL NR 2 FUEL OIL MINOR SPILL
EMPIRE CORP., SHELLBANK CREEK, NY
PCN-NY-215-79

1. SITUATION:
A. 03123OR 1600 GAL POLLUTANT REMOVED. 1700 FT SHORELINE CLEANED. CLEANUP OPERATIONS COMPLETED.
B. FROM 31 JUL THROUGH 03 AUG CONTRACTOR HAD ONE(1) FOREMAN, TEN (10) LABORERS, TWO (2) VACUUM TRUCKS, TWO(2) 1½-TON DUMP TRUCKS, AND 600 FT BOOM O/S.
C. WX: TEMP 83F, WIND 3 W, SEAS CALM, VSB 4.

2. ACTION TAKEN:
A. RESTORED PROPERTY DAMAGED DURING REMOVAL EFFORTS.
B. APPROXIMATELY $12,000 EXPENDED.

3. FUTURE PLANS AND RECOMMENDATIONS:
A. SUBMIT OSC REPORT AND VERIFY INVOICES.

4. CASE CLOSED. VIOLATION REPORT TO FOLLOW.
BT

PLATE 74-4-10C.1

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-3639 (Rev. 6-79)

WATER POLLUTION VIOLATION REPORT

INSTR: *Prepare in triplicate. Retain one for case file. Submit original and copy.*

REPORTING UNIT	DATE OF VIOLATION	CASE NUMBER
Marine Safety Office, Baltimore, MD	11 Dec 76	PCN-BA-104-76

PART I – DISCHARGE DATA

1. TIME OF OCCURRENCE	2. LOCATION
0815 EST	Pier 4, Pratt St., Baltimore, Maryland
3. WATER BODY	4. MATERIAL
Patapsco River, Baltimore Harbor	No. 6 Fuel Oil
5. QUANTITY	6. SOURCE
Approximately 20 gallons	No. 7 deep tank vent on M/V SILVER PEARL
7. CAUSE	8. DISCHARGER
Overfilling of No.7 deep tank	SILVER LINES, LTD.

9. REMARKS

Two bbl of oil spilled on deck of M/V SILVER PEARL. 20 gal entered water.

PART II – REPORTING DATA

1. NAME OF PERSON REPORTING	2. ADDRESS OF PERSON REPORTING
Mr. Casmir Majewski, Dispatcher	Majewski Towing Service, 4518 N. Seminole, P/N(301)473-2175 Baltimore, MD
3. GOVERNMENT AGENCY RECEIVING REPORT	4. DATE/TIME OF REPORT
U.S. Coast Guard	11 December 1976, 0820 EST

5. WAS THE PERSON REPORTING THE INCIDENT EMPLOYED BY OR ACTING IN BEHALF OF THE VIOLATOR?
☒ YES ☐ NO

6. NOTIFICATION PASSED VIA ☒ NRC ☐ OTHER _____

7. OTHER AGENCIES NOTIFIED	8. OCMI NOTIFIED (Time/Date)
EPA Region III, Maryland Dept. of Environment	11 December 1976, 0820 EST

9. REMARKS

NONE.

PART III – FACILITY DATA

1. NAME OF ONSHORE/OFFSHORE FACILITY	2. ADDRESS OF ONSHORE/OFFSHORE FACILITY
Pier 4	Port of Baltimore 2137 7th St., S.W. Baltimore, Maryland 21327
3. TYPE OF FACILITY	4. PERSON-IN-CHARGE
General Cargo	N/A
5. NAME OF OWNER/OPERATOR	6. ADDRESS OF OWNER/OPERATOR
N/A	N/A

7. REMARKS

NONE.

PART IV – VESSEL DATA

1. NAME OF VESSEL	2. NATIONALITY	3. CALL SIGN/OFFICIAL NO.
M/V SILVER PEARL	LI	MX7H
4. GROSS/NET TONNAGE	5. FUEL/CARGO CAPACITY	6. HOME PORT / 7. VESSEL TYPE
1571/1355	740 bbl	Monrovia, Liberia / Cargo
8. NAME OF OWNER/OPERATOR	9. ADDRESS OF OWNER/OPERATOR	
Silver Lines, Ltd.	1 World Trade Center, Suite A490B New York, NY 10005	
10. NAME OF LOCAL AGENT	11. ADDRESS OF LOCAL AGENT	
R.L. Hempland Co., Inc.	1932 Red Cedar St. Baltimore, Maryland 21226	
12. MASTER	13. LICENSE/DOC. NO.	14. PERSON-IN-CHARGE / 15. LICENSE/DOC. NO.
William A. Brown	627-379(LI)	Ptarick O'Malley / 231-792(LI)
16. CERTIFICATE OF FINANCIAL RESPONSIBILITY (Number and expiration date)	17. OCMI ACTION	18. OCMI FILE #
04697, April 1978	Letter of Warning	16722/242/REM

19. REMARKS Mr. O'Malley is second mate of M/V SILVER PEARL. Subj Vsl taking on bunkers from T/B 902 at time of discharge.

PLATE 74-4-10C.1(cont.)

PART V – WITNESSES AND OTHER PERSONS MENTIONED IN THE REPORT

NAME: Patrick O'Malley ADDRESS: 7210 E. Oakley St. New York, N.Y. ZIP 10034 TELEPHONE NUMBER: (212) 589-9361	EMPLOYER: SILVER LINES Ltd. POSITION: 2nd Mate M/V SILVER PEARL CONNECTION WITH THE CASE: Person in Charge of Oil Transfer STATEMENT ATTACHED YES ~~NO~~ ENCLOSURE NUMBER
NAME: Paul S. Majewski ADDRESS: 421 S. Calvert St. Baltimore, MD. ZIP 21224 TELEPHONE NUMBER: (309) 473-2117 (Doc No. 397-212)	EMPLOYER: Majewski Towing Co. POSITION: Person in Charge of Oil Transfer CONNECTION WITH THE CASE: Reporting Party STATEMENT ATTACHED ~~YES~~ NO ENCLOSURE NUMBER
NAME: William A. Slattery, CPO, USCG ADDRESS: c/o MSO Baltimore ZIP 21226 TELEPHONE NUMBER: (309) 471-2995	EMPLOYER: U.S. Coast Guard POSITION: N/A CONNECTION WITH THE CASE: Investigator STATEMENT ATTACHED ~~YES~~ NO ENCLOSURE NUMBER
NAME: Michael G. Guilford, PO2, USCG ADDRESS: c/o MSO Baltimore ZIP 21226 TELEPHONE NUMBER: (309) 471-2995	EMPLOYER: U.S. Coast Guard POSITION: N/A CONNECTION WITH THE CASE: Investigator STATEMENT ATTACHED ~~YES~~ NO ENCLOSURE NUMBER
NAME ADDRESS: N/A ZIP TELEPHONE NUMBER: ( ) –	EMPLOYER POSITION CONNECTION WITH THE CASE STATEMENT ATTACHED YES NO ENCLOSURE NUMBER
NAME ADDRESS: N/A ZIP TELEPHONE NUMBER: ( ) –	EMPLOYER POSITION CONNECTION WITH THE CASE STATEMENT ATTACHED YES NO ENCLOSURE NUMBER

ADD SUPPLEMENTAL LIST IF REQUIRED FOR COMPLETE LIST

PART VI – SAMPLES

1 TAKEN FROM: the waters of Baltimore Harbor along side the M/V SILVER PEARL		
DATE AND TIME TAKEN: 0850, 76DEC11	TAKEN BY: PO2 M.G. GUILFORD	WITNESS: Mr. P. O'Malley
2 TAKEN FROM: the deck of the M/V SILVER PEARL under the No. 7 Deep Tank Vent.		
DATE AND TIME TAKEN: 0900, 76DEC11	TAKEN BY: PO2 M.G. GUILFORD	WITNESS: Mr. P. O'Malley
3 TAKEN FROM: the No. 2 Cargo Tank on the Tank Barge 902 moored alongside M/VSILVER PEARL		
DATE AND TIME TAKEN: 0910, 76DEC11	TAKEN BY: PO2 M.G. GUILFORD	WITNESS: Mr. P. O'Malley
4 TAKEN FROM: No. 7 Deep Tank on the M/V SILVER PEARL		
DATE AND TIME TAKEN: 0930, 76DEC11	TAKEN BY: PO2 M.G. GUILFORD	WITNESS: Mr. P. O'Malley
5 TAKEN FROM		
DATE AND TIME TAKEN	TAKEN BY	WITNESS
6 TAKEN FROM		
DATE AND TIME TAKEN	TAKEN BY	WITNESS
7 TAKEN FROM		
DATE AND TIME TAKEN	TAKEN BY	WITNESS
8 TAKEN FROM		
DATE AND TIME TAKEN	TAKEN BY	WITNESS
9 TAKEN FROM		
DATE AND TIME TAKEN	TAKEN BY	WITNESS
10 TAKEN FROM		
DATE AND TIME TAKEN	TAKEN BY	WITNESS
11 TAKEN FROM		
DATE AND TIME TAKEN	TAKEN BY	WITNESS
12 TAKEN FROM		
DATE AND TIME TAKEN	TAKEN BY	WITNESS

ADD SUPPLEMENTAL LIST IF REQUIRED FOR COMPLETE LIST

PLATE 74-4-10C.1(cont.)

PART VII – PHOTOGRAPHS

1. NUMBER TAKEN	2. TYPE OF FILM	3. ENCLOSURE NUMBER
3	Polaroid SX-70	1

4. REMARKS

NONE.

PART VIII – LIST OF ENCLOSURES

Enclosure: One (1) photograph.

PART IX – INVESTIGATORS SUMMARY

1. At 0820, 11 December 1976, MSO Baltimore received notification from the National Response Center that a discharge of oil had been reported in Baltimore Harbor. Mr. C. Majewski made the report on behalf of the master of the M/V SILVER PEARL, moored at Pier 4.

2. At 0850, CPO W.A. SLATTERY and PO2 M.G. GUILFORD arrived on scene. An oily sheen was observed on the water at the stern of the M/V SILVER PEARL and extending under the pier. The Tank Barge 902 was moored outboard of the M/V SILVER PEARL and cargo hose was connected to the manifolds on both vessels. A sample was taken from the water.

3. At 0900, investigators boarded the M/V SILVER PEARL and interviewed Mr. P. O'Malley, the second mate. Mr. O'Malley stated that, while taking on fuel from Tank Barge 902, the man gauging the No. 7 deep tank level had failed to notify the control station in time to switch the flow of oil to another tank. The tank then overflowed and oil spilled onto the deck from the vent line. Mr. O'Malley declined to sign a statement.

4. Investigators observed the oil-filled containment and oil spilled on the starboard main deck under the No. 7 deep tank vent. A black stripe of oil was also visible extending from the pool on deck down the side of the M/V SILVER PEARL to a silvery sheen on the water. Crewmen were cleaning up the oil on deck and had applied several absorbent pads to the sheen on the water, but the wind and the rising tide was rapidly dissipating the spilled oil, making any cleanup impractical.

5. At 0930, the oil transfer procedures for the vessel were reviewed. The man identified as the gauger was listed as recently completing on-board training by the Chief Engineer, as required by the procedures. No violations of pollution prevention regulations were noted.

PLATE 74-4-10C.1(cont.)

PART X – CLEANUP OR OTHER MITIGATION ACTION

REPORTED IMPACT

None observed

ACTION TAKEN TO PREVENT RECURRANCE

SIGNATURE OF I.O.	SIGNATURE OF CO	DATE
WILLIAM A. SLATTERY, CPO, USCG	GEORGE K. GRONFELDT, CAPT, USCG	13 JAN 77

PART XI – CIVIL PENALTY ACTION TAKEN

PLATE 74-4-10C.1(cont.)

No. 1 Case No. PCN-BA-104-76
Date 12/11/76 Time 0825
Vessel/Facility M/V Silver Pearl
Location Starboard freeboard side to Pier 4, Baltimore Md.
Description Taken from the pier facing the Starboard side of the M/V Silver Pearl at the bow of the ship with the oil sheen on the water
Photographer CPO Sleftenis
Witness PO2 Guilford
Camera Type SX-70 Setting N/A
Film Type SX-70 Process N/A
Remarks none

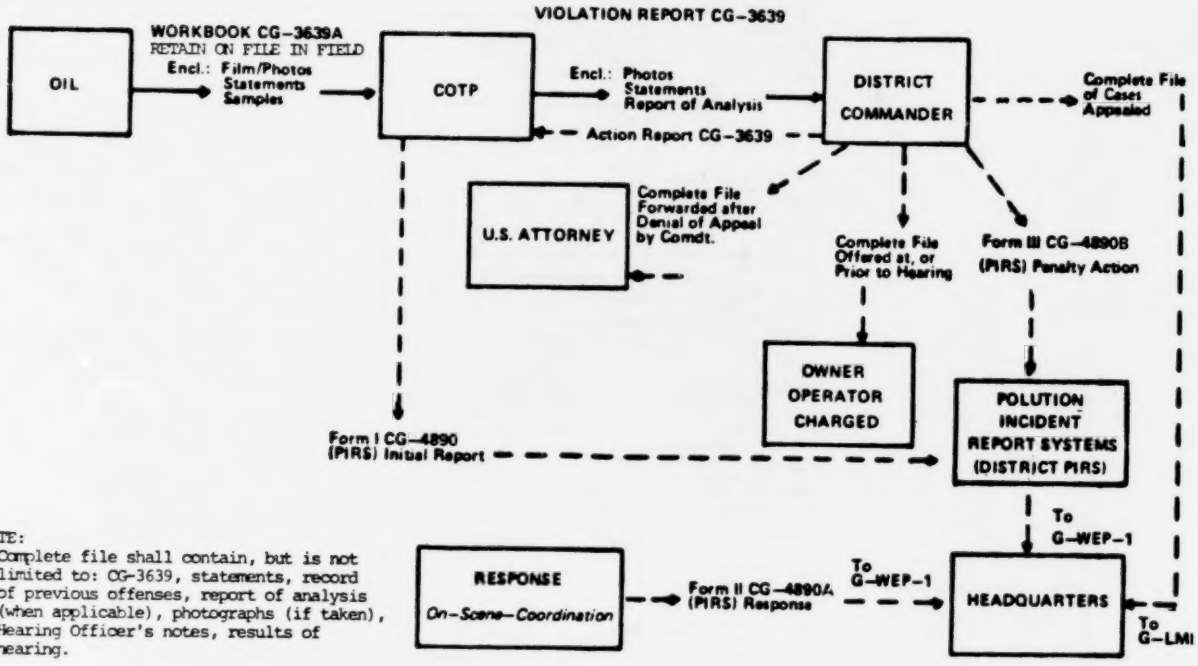
No. 2 Case No. PCN-BA-104-76
Date 12/11/76 Time 0925
Vessel/Facility M/V Silver Pearl
Location Starboard freeboard side to Pier 4 Baltimore Md.
Description Taken from the mid section of the M/V Silver Pearl showing the No. 7 hatch cover and surrounding oil deposits. Oil sheen can also be seen to the right of the vessel.
Photographer CPO Sleftenis
Witness PO2 Guilford
Camera Type SX-70 Setting N/A
Film Type SX-70 Process N/A
Remarks none

No. 3 Case No. PCN-BA-104-76
Date 12/11/76 Time 0930
Vessel/Facility M/V Silver Pearl
Location Starboard freeboard side to Pier 4, Baltimore Md.
Description Taken from the after deck of Pier 402, shows black streaks of oil extending from the scuppers on M/V Silver Pearl to the water and small particles of oil sheen.
Photographer PO2 Guilford
Witness Paul S. Majewski
Camera Type SX-70 Setting N/A
Film Type SX-70 Process N/A
Remarks None

enclosure (1) to
PCN-BA-104-76

PLATE 74-4-20.1

DISPOSITION CHART FOR FORMS CG-3639, CG-3639A, AND ASSOCIATED FORMS



TE:
Complete file shall contain, but is not limited to: CG-3639, statements, record of previous offenses, report of analysis (when applicable), photographs (if taken), Hearing Officer's notes, results of hearing.

PART 74–5—REFUSE ACT ENFORCEMENT

▼74–5–1. BACKGROUND

The Refuse Act (33 U.S.C. 407) prohibits the throwing, discharging, or depositing of any refuse waste into the navigable waters of the United States, its tributaries, or in certain instances onto adjoining shorelines. Though the act did not specify oil or liquid pollutants as "refuse waste," the Supreme Court in *U.S. v. Standard Oil Co.*, 384 U.S. 224 (1966) construed the term "refuse" as encompassing commercially valuable gasoline. This decision laid the foundation for the use of this act in controlling oil pollution. The act provides civil and criminal sanctions. The administration and primary enforcement authority under the Refuse Act lies with the U.S. Army Corps of Engineers; however, the Supreme Court has ruled that cases can be referred directly to the Department of Justice by the Coast Guard.

Persons and corporations found in violation of this act, or that "knowingly aid, abet, authorize, or instigate a violation" of this act, shall be liable for a fine of not less than $500 nor more than $2500, or imprisoned not less than thirty days nor more than one year, or both. (See 33 U.S.C. 411.)

▼74–5–5. GUIDELINES

The U.S. Army Corps of Engineers is the agency charged with the administration and primary enforcement of the Refuse Act. There is no mandate directing the Coast Guard to investigate Refuse Act violations. However, in that the Coast Guard is the chief maritime enforcement agency, investigations into Refuse Act violations should be conducted when resources permit and, when violations are substantiated by the investigation, appropriate enforcement action should be initiated. All reports of Refuse Act violations received by the Coast Guard and any action taken concerning the reports, including referrals to the U.S. attorney, should be conveyed to the Corps of Engineers.

Since enforcement of the Refuse Act may vary among Coast Guard districts and Corps of Engineers districts, district commanders and captains of the port should establish and maintain close liaison with the cognizant district Army engineer to insure that the public is served and that reports of Refuse Act violations are investigated. Although the term "refuse" has been interpreted to include oil, the primary enforcement tool for discharges involving oil is the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 *et seq.*).

▼74–5–10. COLLECTION OF EVIDENTIARY MATERIAL

Photographs and statements from eyewitnesses are the two primary types of evidentiary material that are collected for successful prosecution of violations of the act. Investigating officers must remember that proof is required to establish that refuse has been:

(a) Discharged into any navigable water of the United States.

(b) Discharged into any tributary of any navigable water, or washed into the navigable water.

(c) Placed on the bank of any navigable water, or on the bank of any tributary of a navigable waterway, where it is liable to be washed into the navigable waterway and thus impede or obstruct navigation.

▼74–5–15. REPORTS

Pollution report messages (POLREPS) should be submitted in accordance with the guidelines provided in subpart 74–4–5 of this manual.

All pertinent information regarding the violation shall be incorporated into the Water Pollution Violation Report (Form CG-3639). Guidelines for completing this form are found in subpart 74–4–10 of this manual. When the investigation is complete, the

report should be submitted to the cognizant district commander for forwarding to the Corps of Engineers *or* the U.S. attorney, as determined by local agreement.

MARINE SAFETY MANUAL (CG-495)

PART 74–6—THE OIL POLLUTION ACT OF 1961

(To be developed.)

(e) A file, as comprehensive as practicable, of instructions, publications, etc., affecting general and specific management of pollution control equipment.

(f) Prevention of Coast Guard-owned equipment from competing with the use of cooperative or commercial resources.

(g) Reports of equipment usage, enumerating appropriate specifics, to Commandant (G-WEP) with copies to (G-EOE) and district commander (m, e).

(h) Documentation of out-of-pocket expenses chargeable to the pollution fund, for billing to responsible parties.

(i) Adequate storage arrangements.

(j) Training of personnel to operate equipment and if necessary, training assistance from the Strike Force equipment manufacturer or other competent source.

(k) Engineering support from the district commander (e) for pollution equipment problems.

6–6–5B(2). Considerations for the Use of Coast Guard-owned Oil Pollution Equipment. Good administration of pollution control equipment involves determining when and how the equipment is to be used. Each unit shall give consideration to the use of Coast Guard-owned pollution control equipment in the following situations:

(a) Coast Guard-owned equipment may be used to remove discharges from vessels or facilities owned or operated by the Coast Guard. Other Federal agencies may use Coast Guard equipment, on a cost-reimbursement basis, to remove or control discharges from their vessels or facilities. The costs for use of Coast Guard-owned equipment by another agency shall not be paid from the pollution fund and must be charged to that agency's operational funds. Reimbursement arrangements shall be negotiated prior to or at the time that Coast Guard equipment is made available to other government agencies.

(b) When a discharge emanates from an unknown source, Coast Guard-owned equipment shall be immediately deployed to control the discharge dispersion when it is determined that Coast Guard-owned equipment will be more effective than locally available equipment, or that Coast Guard-owned equipment can be activated more rapidly than locally available equipment.

(c) When a discharge emanates from a known source, the discharger shall be strongly encouraged to control or remove such discharge with his own resources. Once it is determined that the polluter is making proper control/removal efforts, Coast Guard-owned equipment may be made available if its use will "significantly enhance" the removal/control effort.

(d) When a polluter is willing to remove the discharge, but unable to use alternate equipment Coast Guard-owned equipment shall be made available. Upon the arrival of cooperative or commercial equipment, consideration should be given to the withdrawal of Coast Guard-owned equipment unless its use will "significantly enhance" the removal of the discharge.

▼6–6–10. MEPALT SYSTEM

▼*6–6–10A. INTRODUCTION*

As new pieces of hardware are introduced into the Marine Environmental Protection (MEP) Program, certain defects or design flaws may be discovered by operators. These defects or design flaws are normally corrected by alterations in the field, made by the operators. The method of alteration must be standardized to insure that detrimental changes are not made and that all units have the best available equipment possible.

Generally, an alteration, or MEPALT, is a change to the design or specifications of a particular piece of Marine Environmental Protection (MEP) equipment and its components, including changes to machinery, structural components, fittings, rigging, corrosion protection coatings, or any change which would affect the operational characteristics of the equipment. This subpart establishes requirements

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DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS:
U.S. COAST GUARD (G-MP-5)
WASHINGTON, D.C. 20590
PHONE: (202) 426-9776

320-683
279

COMDTNOTE 16000

CANCELED: 6 NOV 1980

COMDTNOTE 16000
8 MAY 1980

9353

Subj: CH-5 to Volume V - INVESTIGATIONS, of the Marine Safety Manual (COMDTINST M16000.3) (old CG-495)

1. PURPOSE. This Notice transmits changes to Volume V - INVESTIGATIONS of the Marine Safety Manual by adding miscellaneous changes to chapters 70 (Investigations - General), 71 (Procedures Against Licenses and Documents), 76 (Load Line Investigations); and providing pen-and-ink corrections to the volume.

2. SUMMARY OF CHANGES.

   a. Section 70-4-25C (Interview - Miranda Warning to Civilians) has been expanded.

   b. Section 71-5-5A (Records of Previous Convictions) has been revised.

   c. Section 71-11-15 (Referral to Administrative Clemency Review Board) has been revised.

   d. Section 76-2-5A (Load Line Conventions and Treaties) has been expanded.

   e. Plate 76-3-1D.1 (Load Line Authorization Letter) has been added.

   f. Section 76-4-15 (Foreign Load Line Certificates) has been revised.

   g. Section 76-4-20 (Form B Load Line Certificates) has been revised.

   h. Section 76-5-10 (Equipment Needed For Load Line Inspections) has been revised.

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	a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y	z
A		*																								
B		4	15*		5		2	*		5				200	1	1	2	1								
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NON-STANDARD DISTRIBUTION: (See page 3.)

COMDTNOTE 16000
8 MAY 1980

3. ACTION.

a. Remove and insert the following pages:

Remove	Insert
70-4:3 through 70-4:4	70-4:3 through 70-4:4, CH-5.
71-5:1 through 71-5:3	71-5:1 through 71-5:3, CH-5.
71-11:1 through 71-11:2	71-11:1 through 71-11:2, CH-5.
76-2:1 through 76-2:2	76-2:1 through 76-2:5, CH-5. 76-3:6, CH-5.
76-4:1 through 76-4:3	76-4:1 through 76-4:3, CH-5.
76-5:1 through 76-5:2	76-5:1 through 76-5:2, CH-5.

b. Make the following pen-and-ink corrections:

(1) Subpart 72-5-5A(f), p. 72-5:3, line 2, change Subpart "72-5-25" to "72-2-15".

(2) Plate 75-7-1.1, p. 75-7:2, add "XX" in box 1.(c).

c. Make an entry on the "Record of Changes" page at the front of the volume.

4. CHANGES. Suggestions for improvement to the Marine Safety Manual are encouraged. They should be submitted on Form CG-5122, which has been supplied with this volume.

HENRY H. BELL
Chief, Office of Merchant Marine Safety

Encl: CH-5 to Volume V, Marine Safety Manual

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Transportation Safety Institute(100)
Panama Canal Zone Liaison Officer(1)
DoJ Torts Branch - Washington D.C., New York, San Francisco only (1).

"My name is _____. I am investigating the circumstances surrounding (the nature of the marine casualty being investigated) in which you are a suspect. I advise you that under the provisions of article 31, UCMJ, you have the right to remain silent, that is, to say nothing at all. Anything you do say may be used as evidence against you in a trial by court-martial, or by any Federal, state, or local court of law. I advise you also that you have the right to consult with an attorney, if you desire, and to have an attorney present during this interview. You may obtain a civilian attorney of your own choosing, at your own expense, or, if you wish, the Coast Guard will appoint a military attorney for you free of charge. You may request an attorney at any time during this interview, and if you decide to answer questions without an attorney present, you may stop the questioning at any time."

After this warning has been given, ascertain whether the individual understands his rights and will be able to freely, knowingly, and intelligently waive them. If he indicates and it appears that he understands his rights, then specifically ask him the following questions:

(1) Do you want an attorney?
(2) Do you want to make a statement and answer questions?

If the individual wishes to exercise any of his Miranda/Tempia or article 31 rights, all questioning should cease immediately.

70-4-25C. INTERVIEW—MIRANDA WARNING TO CIVILIANS

Investigating officers should bear in mind that in many cases involving marine casualties or accidents the Coast Guard is concerned primarily with determining the cause of the casualty in the hope that something will be learned which can be used to prevent a similar casualty in the future. The process of giving a witness or a party in interest a Miranda warning to protect his Constitutional rights may have such a chilling effect on the gathering of important information which would help determine the cause of the casualty that the value of the entire investigation may be adversely affected; the possibility of obtaining criminal penalties against the person is of secondary importance in such a case. Therefore, the goal of developing facts and evidence which will assist in the determination of the cause of a vessel casualty, shoreside facility casualty, or offshore structure casualty should be the investigating officer's priority, even at the possible sacrifice of future criminal prosecution of appropriate parties.

There are instances, however, when the seeking of a criminal penalty is a primary consideration in the conduct of an investigation. For example, when dealing with investigations of pollution incidents, an investigating officer may be dealing with an apparent violation of the notification requirement contained in 33 U.S.C. 1321(b)(5), in which case, one of his considerations should be the protection of a future case involving criminal prosecution of the responsible party who failed to give notification. If it is deemed desirable to protect this possibility of criminal prosecution, a Miranda warning must be given to the party when he is interviewed.

When it has been determined that possible criminal prosecution of a person suspected of any wrongdoing should be preserved, the Miranda warning must be given to him before he is questioned about his own guilt or conduct in the matter being investigated.

The Miranda warning shall be separate and distinct from any other statements made to the person; must be given before the asking of any questions, the answers to which may subject the person to criminal liability; and shall be given in such fashion as to assure his complete understanding. A sample Miranda warning follows:

"My name is _____. I am investigating the alleged offense(s) of _____ of which you are suspected. I advise you that under the provisions of the Fifth Amendment to the Constitution you have the right to remain silent, that is, to say nothing at all. Anything you do say may be used as evidence against you in a trial or in other judicial or administrative proceedings. I advise you that you have the right to consult with an attorney if you desire and to have an attorney present during this interview. You may obtain an attorney of your own choosing at your own expense, or if you cannot afford an attorney, one will be appointed for you. You may request an attorney at any time during this interview, and, if you decide to answer questions without an attorney present, you may stop the questioning at any time."

After this warning has been given, ascertain whether the individual understands his rights and will be able to freely, knowingly, and intelligently waive them. If he indicates and it appears that he understands his rights, then specifically ask him the following questions:

(1) Do you want an attorney?

(2) Do you want to make a statement and answer questions?

▼If the individual wishes to exercise any of his Miranda or 5th Amendment rights, all questioning should immediately cease. A decision must then be made as to what action is appropriate under the particular law enforcement statute involved. Should that action be arrest of the individual, the appropriate judicial authority would subsequently appoint counsel to represent the individual if necessary.

70–4–25D. REFUSAL OF WITNESSES TO TESTIFY

The person whose conduct is the subject of an administrative hearing has the right to remain silent, pursuant to 46 CFR 5.20–45, and must be so advised by the administrative law judge (ALJ).

Occasionally, during the conduct of a formal investigation, marine board, or administrative hearing, the investigation officer, marine board or ALJ, as appropriate, is faced with a situation where a witness whose conduct is not the subject of the inquiry either asserts his constitutional right not to testify or states that he intends to assert such a right. In a case where sources of information are available other than from the respondent or from a witness who asserts his privilege, the refusal of a witness to testify, while possibly causing some delay or inconvenience, does not prevent the investigation or hearing from proceeding.

In a few cases, however, the witness is the only source of information other than the respondent, and the witness' refusal to testify prevents the investigation or hearing from proceeding. In these cases, title II of the Organized Crime Control Act of 1970, 18 U.S.C. 6001–6005, provides the authority and the vehicle for obtaining a grant of immunity from prosecution for a witness and thereafter compels his testimony at the administrative proceedings. These procedures are not available to compel the testimony of the person whose conduct is the subject matter of the hearing and who has chosen to remain silent.

In any case where a witness has refused or states that he intends to refuse to testify before an investigating officer, marine board, or administrative law judge, and the district commander determines that the testimony of that witness may be necessary for the public interest, the district commander may submit a request to the Commandant (G-LCL) that the approval of the Attorney General be obtained to order the witness to testify. The request submitted by the district commander should contain the following:

(1) An appropriate draft proposed order to testify, for the signature of the investigating officer, chairman of the marine board, or administrative law judge presiding. Included therein must be the requisite findings that the witness is likely to refuse to testify on Fifth Amendment grounds and that the testimony of the witness is necessary to the public interest. (See plates 70–4–25D.1, .2 and .3.)

(2) An information sheet giving the following data:

(a) Name, citation, or other identifying information of the proceeding in which the order is to be used.

(b) Name of the individual for whom immunity is requested.

(c) Name of the employer or company with which the witness is associated.

(d) Date and place of birth of the witness.

(e) FBI record number or local police number, if any.

PART 71–5—PROCEDURES PRIOR TO A HEARING

71–5–1. TIME AND PLACE OF HEARING

The hearing shall be held at the time and place specified in the notice of the hearing served upon the person charged by or under the direction of the investigating officer.

71–5–5. RECORDS OF PREVIOUS CONVICTIONS

▼*71–5–5A. PRIOR RECORDS*

The existence or absence of a seaman's prior disciplinary record should not be considered when deciding whether or not to bring charges. Since a seaman's past actions will neither prove nor disprove facts in a later incident, his prior record will not normally be provided until charges have been served. It will then take the form of a MERMARPER and will be considered in aggravation or mitigation of offenses proved (MSM 71–7–105). Only in exceptional cases will prior record information be released by Commandant (G-MMI-2) other than as a MERMARPER.

71–5–5B. INFORMATION FROM COMMANDANT VIA MERMARPER MESSAGES

After charging any person, the investigating officer should arrange to have information concerning the person's prior disciplinary and/or commendatory record forwarded from the Commandant (G-MMI-2). The request should indicate the complete first, middle and last names, together with his correct MMD number. Requests for a MERMARPER on more than one individual should be combined into one message. MERMARPER messages should be sent by routine precedence. Messages needed quickly may be telephoned to Commandant (G-MMI-2). The use of rapidraft letters is encouraged when a hearing is scheduled far enough in advance. When a MERMARPER is received by the Commandant (G-MMI-2) it is assumed that a man has been charged and is to be taken to a hearing. Any pending cases at Headquarters on persons listed as "Wanted" will be forwarded without specific request unless the case originated in the office sending the message.

71–5–10. ISSUANCE OF CHARGE SHEET

(A) To institute hearing proceedings preparatory to the hearing, the investigating officer shall prepare charges and specifications, as required, together with a notice of the time and place of the hearing.

(B) The notice of the time and place of the hearing and the original of the charges and specifications shall be served upon the person charged, either by personal service or certified mail with return receipt requested, and the notice is to be signed by the addressee only.

(C) When service is by mail, it shall be done sufficiently in advance of the time set for the hearing so that the person charged is given a reasonable opportunity to prepare his defense.

(D) When personal service is made upon the person charged, the person making the service shall give the original of the notice of the hearing, the charges and specifications to the person charged; shall read them to that person; and, shall make a record of the time and date of service. When personal service is made, the written acceptance made on the reverse side of the form containing the charges and specifications shall be sufficient to show service as of the date on the face of the form unless otherwise indicated by separate notation thereon by the person effecting the service.

(E) Further, at the time of service, whether personal or by certified mail, the person charged will be advised with respect to:

(1) The nature of suspension and revocation proceedings and the possible results thereof.

(2) His right to have counsel represent him at the hearing, and that counsel may be a lawyer or any other person he desires to represent him.

(3) His right to have witnesses and/or records subpoenaed in his behalf.

(F) If the offense alleged involves mental incompetence, the person charged shall be advised to procure counsel to represent him when the service of the charge and specification and notice of hearing is made.

(G) In the event that a seaman being charged refuses to sign or accept the charge sheet, the investigating officer may testify in open hearing as to this fact, and if the person charged does not appear the hearing may be commenced *in absentia*. The investigating officer's testimony must establish that every attempt possible was made to apprise the seaman of his rights.

71–5–15. REVIEW OF INVESTIGATIVE CASE FILES

71–5–15A. DOCUMENTS

Before the hearing, the investigating officer who is presenting the case before the administrative law judge should thoroughly review the case file. He should be certain that the documentary evidence will be acceptable. He should also verify that log entries are made in substantial compliance with 46 U.S.C. 702, and that Shipping Articles have been properly certified and extracted.

71–5–15B. WITNESSES

The investigating officer should attempt to anticipate the events that will take place during the hearing. Witnesses should be interviewed before the hearing in order to predict responses that they will give to questions. The names, addresses, and telephone numbers of any potential witnesses that have not been subpoenaed should be readily available. If during the course of the hearing he finds that he will need their testimony, he should request a continuance of the hearing and have them called.

71–5–20. ORGANIZATION OF EVIDENCE

Before the hearing, the investigating officer should prepare his evidence in logical chronological order. Following the rules of evidence, you are attempting to prove to the administrative law judge that the allegations you have made are true. Submission of otherwise good evidence in the improper sequence can be detrimental to your case. It is helpful to prepare a list of questions you intend to ask each witness. This does not mean you should be reading them to him at the hearing, but rather they should serve as reminders to you so that you don't forget to establish every point you had intended to. In all cases the investigating officer knows that the facts he has alleged are true. Failure to prove these facts at a hearing is detrimental to the basic objective of suspension and revocation proceedings. There is no substitute for adequate planning and careful preparation of your case.

71–5–25. NOTIFICATION OF OTHER AGENCIES

Often the subject matter of a hearing will be of interest to other agencies, such as the Federal Communications Commission, Immigration and Naturalization Service, local law enforcement agencies, Department of Justice, etc. As a matter of courtesy they should be advised of the time and place of such hearings.

71–5–30. ISSUANCE OF SUBPOENAS

During the investigation and before the hearing, the investigating officer shall issue subpoenas for the attendance of witnesses or for the production of books, papers, documents, or any other relevant

evidence that he may need or that may be needed by the person charged.

During the hearing, the administrative law judge may issue subpoenas for the attendance and the giving of testimony by witnesses or for the production of books, papers, documents, or any other relevant evidence. This may be done upon his own motion, or upon request by a party in interest or the investigating officer.

71–5–35. WITHDRAWAL OF CHARGES PRIOR TO A HEARING

Occasionally, an investigating officer may desire to withdraw charges prior to the convening of a hearing. For example, a last-minute decision to enter into a voluntary deposit agreement or voluntary surrender agreement may occur, the investigating officer may have uncovered additional evidence to make him believe the charges are not warranted, or charges may not have been properly served in accordance with 46 CFR 5.05–25. If a copy of a charge sheet has been forwarded to the administrative law judge, the investigating officer should merely inform the judge that the anticipated hearing will not take place. A hearing should not be convened simply to withdraw charges. Caution should be taken to differentiate between these conditions and those specified in subpart 71–7–25 of this manual concerning dismissable with and without prejudice.

PART 71-11—ISSUANCE OF SEAMEN'S PAPERS AFTER REVOCATION OR SURRENDER

71-11-1. SEAMAN'S APPLICATION

Seamen who have surrendered their licenses, certificates or documents or have had them revoked may apply for new licenses, certificates or documents pursuant to the provisions of 46 CFR 5.13. Applications together with supporting papers may be accepted by an officer in charge, marine inspection in those cases where the time limitation prescribed by 46 CFR 5.13-1(a) or 46 CFR 5.13-1(b) has been met and all material required by 46 CFR 5.13-5 is submitted. For those seamen whose prior application for a new document has been denied by the Commandant, a subsequent application may be accepted one year after denial. In these cases the provisions of 46 CFR 5.13-5 shall be met with the exception that supporting evidence of character and employment need cover only that period since denial of the previous application. Periods, subsequent to revocation or surrender of document, spent under correctional detention or probation shall be indicated in the application. The majority of time taken to process clemency application can be eliminated if Commandant (G-MMI-2) is notified of the individual's intention to complete the application. This will permit the time-consuming police record check to be initiated at Headquarters before receipt of the remainder of the file.

71-11-5. REVIEW OF MATERIAL

71-11-5A. GENERAL

An in-depth review by the Commandant of the material submitted in support of an application for administrative clemency is required. For this reason, the applications should normally be processed by an investigating officer (in lieu of persons in the document and license department). The Administrative Clemency Review Board's recommendation as to whether a new document should be issued will be based largely upon the degree of rehabilitation achieved by the applicant since revocation.

Information concerning past service as a merchant seaman is contained in records at Headquarters; therefore, it is not necessary to delve deeply into this aspect of the applicant's past. Personal interviews with the applicant should be directed toward gaining insight into his shoreside employment, attitude, involvement with law enforcement authorities, social habits, relationships with fellow employees, etc., during the time since revocation. It is particularly essential to determine whether or not past traits or habits of life which contributed to revocation have been overcome or eliminated.

71-11-5B. APPLICANT'S LETTER.

The applicant should use the letter described in 46 CFR 5.13-5 to make the Commandant aware of any factors not covered elsewhere in his application. The applicant should make specific reference to the cause of his revocation and comment on how his lifestyle may have changed (sobriety, propensity toward violence, narcotic involvement, etc.). Any periods of unemployment must be satisfactorily explained in this letter.

71-11-5C. LETTERS FROM EMPLOYERS.

The members of the Administrative Clemency Review Board realize that it may be impossible to literally comply with 46 CFR 5.13-5(b)(1) in all cases, especially when a long period of time has elapsed since revocation. When reviewing the applicant's letters from employers, the investigating officer shall insure that any periods not covered are satisfactorily explained (see 71-11-5B above).

71-11-5D. CHARACTER REFERENCES.

Letters of character references are often received which extol the virtues of an applicant who has constantly been in trouble with civil authorities. Character references, to be of value, should acknowledge the applicant's prior problems and speak

directly about his success in overcoming them. Character references must be current and must be provided by individuals who have had recent contact with the applicant.

71–11–5E. VERIFICATION OF MATERIAL.

All letters submitted in accordance with 46 CFR 5.13–5 must be verified for authenticity by the investigating officer. A notation on the bottom of each letter will suffice to advise the Administrative Clemency Review Board that the verification was made.

71–11–5F. CERTIFICATION OF FITNESS FOR SEA DUTY.

When a revocation was based upon a physical or mental incompetence charge, the applicant should be referred to the U.S. Public Health Service to be certified as fit for sea duty. The same guidelines contained in paragraph 71–4–10A(2) of this manual shall apply. If the revocation was for a narcotic-related offense, the applicant shall be referred to the U.S. Public Health Service for certification that he is fit for sea duty *and* is not presently using narcotics. The "fit for duty" certificate shall be enclosed with the OCMI's forwarding letter.

71–11–10. REFERRAL TO COMMANDANT

Upon completing the review of the application, supporting material, and evidence developed, the OCMI shall forward the file together with his recommendation to Commandant (G-MMI-2). The recommendation should clearly state the OCMI's appraisal of the reliability of supporting material and the degree of rehabilitation achieved during the period since revocation.

▼71–11–15. REFERRAL TO ADMINISTRATIVE CLEMENCY REVIEW BOARD

The chief, personnel action branch, shall refer all applications received to the administrative clemency review board convened at Coast Guard Headquarters by the Commandant. The material referred shall include the seaman's application and supporting papers; the recommendation furnished by the OCMI; an up-to-date resume of applicants criminal record, if any, including reports of arrest and disposition for crimes or offenses involving violence or moral turpitude; and a complete record of past action taken under the suspension and revocation proceedings.

PART 76–2—LOAD LINE ADMINISTRATION—REFERENCES

76–2–1. LOAD LINE STATUTES

The acts establishing load line requirements for United States vessels and foreign vessels operating in United States waters are found in CG-227, *Laws Governing Marine Inspection*. They are as follows:

76–2–1A. LOAD LINES—VESSELS IN FOREIGN TRADE

The International Voyage Load Line Act of 1973 (46 U.S.C. 86–86(i)) applies to registered and unregistered U.S. and foreign vessels which arrive at or depart from any port or place within the jurisdiction of the United States from or for a foreign port. The act also applies to U.S. vessels engaged in voyages between foreign ports.

This act does not apply to ships of war; pleasure craft not used in trade or commerce; fishing vessels; existing vessels (those vessels whose keels were laid before 21 July 1968) of less than 150 gross tons; new vessels of less than 79 feet in length; or to vessels which navigate exclusively on the Great Lakes. Vessels operating on sheltered waters between ports of the United States and neighboring countries, if provided for by a U.S. treaty, are also excluded. (The United States denounced the 1930 Load Line Convention in 1966; thus the United States does not recognize 1930 Load Line Certificates.)

76–2–1B. LOAD LINES—COASTWISE AND GREAT LAKES VESSELS

The provisions of the Coastwise Load Line Act of 1935, as amended, are contained in 46 U.S.C. 88–88(i). This applies to all U.S. and foreign merchant vessels of 150 gross tons and over which are loading at or proceeding from any U.S. port for a "coastwise voyage by sea," or are on a voyage proceeding from one port on the Great Lakes to another port on the Great Lakes. The above provisions are not applicable to certain merchant vessels engaged in certain aspects of the fisheries of the states of Oregon, Washington, and Alaska. These exceptions include cannery or fishing tender vessels of not more than 500 gross tons if constructed on or before 11 July 1968, or if converted to those services on or before 11 July 1973. Similarly, vessels used in the processing or assembling of fishery products in the above states, of not more than 5000 gross tons, if constructed on or before 15 August 1974, or if converted on or before 11 July 1978, are excluded from the provisions of this law.

76–2–5. LOAD LINE CONVENTIONS AND TREATIES

76–2–5A. INTERNATIONAL LOAD LINE CONVENTION, 1966

The International Load Line Convention, 1966, established standards (including structural and other technical requirements) for the surveying and marking of load lines on certain vessels which are on international voyages. It became effective on July 21, 1968.

▼46 CFR 42.03–10 states that after 21 July 1970, the only Load Line Certificate recognized by the United States is a 1966 International Load Line Certificate, unless a country is still within the maximum two-year grace period set forth in Article 16(4) of the International Convention on Load Lines, 1966. Article 16(4) states that any international load line certificate which is current when the International Convention on Load Lines, 1966 comes into force, in respect of the Government of the State whose flag the ship is flying, shall remain valid for two years or until it expires, whichever is earlier.

Article 17 of the International Convention on Load Lines, 1966 prohibits the issuance of a 1966 International Load Line Certificate to any vessel which is flying the flag of a State, the Government of which is not a Contracting Government to the Convention.

46 CFR 42.03–10 states that vessels of countries not signatory to or adhering to the International Convention on Load Lines, 1966 are subject to United States Load Line Regulations when within the jurisdiction of the United States. This means that such vessels must obtain Form B Load Line Certificates which will be valid only on the navigable waters of the United States.

Plate 76–2–5A.1 gives the dates of entry into force for each country. 1930 Load Line Certificates can be recognized for up to two years after the 1966 Load Line Convention has come into force for the country, provided the country had ratified the 1930 International Load Line Convention.

76–2–5B. INTERNATIONAL CONVENTION FOR SAFETY OF LIFE AT SEA, 1960 (LOAD LINE PROVISIONS)

Regulation 11 of chapter II, SOLAS 1960, contains requirements for assigning, marking, and recording of subdivision load lines on passenger vessels subject to SOLAS 60 making international voyages.

76–2–5C. TREATY BETWEEN THE UNITED STATES AND CANADA DEFINING CERTAIN WATERS OF THE WEST COAST OF NORTH AMERICA AS SHELTERED WATERS

By a treaty between the United States and Canada defining certain waters of the west coast of North America as sheltered waters, the United States and Canada agreed to exempt Canadian vessels and vessels of the United States from the provisions of the Load Line Convention of 1930, as authorized therein, and from the provisions of existing laws with respect to load lines when engaged on international voyages originating on, wholly confined to, and terminating on the defined waters. This treaty is held to be equally valid to exempt subject vessels from the provisions of all international load line requirements and agreements entered into to date, other than the subdivision load line requirements of SOLAS 60. The terms of the treaty are contained in the appendix to CG-176, *Load Line Regulations*. Under the terms of this treaty, the regulations in subchapter E issued pursuant to the International Load Line Act of 1973 and the Coastwise Load Line Act of 1935, do not apply to Canadian or United States vessels operating on the "sheltered waters" which are as follows:

> ...the waters of Puget Sound, the waters lying between Vancouver Island and the mainland, and east of a line from a point one nautical mile west of the city limits of Port Angeles in the State of Washington to Race Rocks on Vancouver Island, and of a line from Hope Island, British Columbia, to Cape Calvert, Calvert Island, British Columbia, the waters east of a line from Cape Calvert to Duke Point on Duke Island, and the waters north of Duke Island and east of Prince of Wales Island, Baranof Island and Chicagof Island, the waters of Peril, Neva and Olga Straits to Sitka, and the waters east of a line from Port Althrop on Chicagof Island to Cape Spencer, Alaska, are sheltered waters...

76–2–10. LOAD LINE REGULATIONS

76–2–10A. The Load Line Regulations are in 46 CFR 42 through 46. They are also published in CG-176, *Load Line Regulations*. These regulations implement the provisions of the statutes, conventions, and treaties previously cited, and have the force and effect of law.

76–2–10B. Part 46 of the regulations contains requirements with respect to subdivision load lines for certain United States and foreign passenger vessels engaged in foreign voyages and certain United States and foreign passenger vessels of 150 gross tons and over engaged in coastwise or Great Lakes voyages. The specific application is in 46 CFR 46.01–15.

PLATE 76-2-5A.1

NATIONS WHICH ARE PARTIES TO THE INTERNATIONAL CONVENTION ON LOAD LINES, 1966

Nation	Date of Entry Into Force
Algeria*	4 Jan 77
Argentina*	3 Sep 71
Australia*	29 Oct 68
Austria	4 Nov 72
Bahamas	22 Oct 76
Bangladesh	10 Aug 78
Belgium*	22 Apr 69
Bermuda	1 Apr 75
Brazil*	12 Dec 69
Bulgaria*	30 Mar 69
Canada*	14 Apr 70
Cape Verde	28 Jul 77
Chile*	10 Jun 75
China, People's Republic of	5 Jan 74
Cuba*	6 May 69
Cyprus*	5 Aug 69
Czechoslovakia*	16 Sep 69
Democratic Yemen	20 Aug 69
Denmark*	21 Jul 68
Dominican Republic*	28 Sep 73
Ecuador*	12 Apr 76
Egypt	6 Mar 69
Fiji	1 Mar 73
Finland*	15 Aug 68
France*	21 Jul 68
German Democratic Republic	15 Aug 75
Germany, Federal Republic of*	9 Jul 69
Ghana*	25 Dec 68
Greece*	12 Sep 68
Honduras	16 Feb 78
Hong Kong	16 Aug 72
Hungary*	25 Dec 73
Iceland*	24 Sep 70
India*	21 Jul 68
Indonesia	17 Apr 77
Iran	5 Jan 74
Ireland*	28 Nov 68
Israel*	21 Jul 68
Italy*	21 Jul 68
Ivory Coast*	19 Oct 71

PLATE 76-2-5A.1(cont.)

Nation	Date of Entry Into Force
Japan*	15 Aug 68
Kenya	12 Dec 75
Korea, Republic of*	10 Oct 69
Kuwait*	28 Nov 68
Lebanon	7 Oct 70
Liberia*	21 Jul 68
Libyan Arab Jamahiriya(Republic)	12 Nov 74
Madagascar*	21 Jul 68
Malaysia*	12 Apr 71
Maldive Islands	21 Jul 68
Malta	11 Dec 74
Mauritania*	21 Jul 68
Mexico*	25 Jun 70
Monaco	25 Jun 70
Morocco	21 Jul 68
Netherlands/Netherlands Antilles*	21 Jul 68
New Zealand*	5 May 70
Nigeria*	14 Feb 69
Norway*	21 Jul 68
Oman	20 Nov 75
Pakistan*	5 Mar 69
Panama*	21 Jul 68
Papua New Guinea	18 Aug 76
Peru*	21 Jul 68
Philippines	4 Jun 69
Poland*	28 Aug 69
Portugal*	22 Mar 70
# Romania*	3 Sep 71
Saudi Arabia	5 Dec 75
Senegal	18 Nov 77
Seychelles	1 Jan 77
Singapore	21 Dec 71
Somalia	21 Jul 68
South Africa	21 Jul 68
Spain*	1 Oct 68
Sri Lanka	10 Aug 74
Surinam	25 Nov 75
Sweden*	21 Jul 68
Switzerland*	23 Jul 68
Syrian Arab Republic	6 May 75
Tonga	12 Jul 77
Trinidad & Tobago	21 Jul 68
Tunisia	21 Jul 68
Turkey*	5 Nov 68
U.S.S.R.	21 Jul 68
U.K.	21 Jul 68
U.S.A.	21 Jul 68

PLATE 76-2-5A.1 (cont.)

Nation	Date of Entry Into Force
Uruguay	18 Jul 77
Venezuela*	15 Jan 75
Vietnam*	14 Sep 68
Yemen Arab Republic	6 Jun 79
Yugoslavia*	25 Jan 69
Zaire	20 Aug 68
Zambia	2 Dec 70

The Convention has been extended to:

Puerto Rico, Panama Canal Zone, Virgin Islands, American Samoa, Trust Territories of the Pacific Islands	9 Sep 75
Midway Islands, Wake Island, Johnston Island	18 Mar 76

* Denotes nations which are party to the International Load Line Convention, 1930.

Quatar became party to the Convention on 31 Jan 80.

(Plate updated 24 Apr 80.)

PLATE 76-3-1D.1

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS
U.S. COAST GUARD

16711

DITT O'RODD Dredge & Dock Co.
919 N. Michigan Avenue
Chicago, Illinois 60611

COASTWISE LOAD LINE CERTIFICATE

Issued under the provisions of Title 46, Code of Federal Regulations, 42.03-30(f) by the U.S. Coast Guard Officer in Charge, Marine Inspection, Toledo, Ohio to:

Dredge TEN-CEE, O.N. 123654

This Certificate is valid only for a voyage from Toledo, Ohio to Staten Island, New York coastwise to arrive not later than 15 June 1980, with no cargo or passengers and unmanned except for not more than four(04) maintenance men allowed. All openings to the hull shall be closed and securely fastened.

This Certificate is valid until 15 June 1980, or until arrival in Staten Island, New York.

Issued at Toledo, Ohio, 1 May 1980.

M. J. COOKY
Commander, U.S. Coast Guard
Officer in Charge, Marine Inspection

SPEED LIMIT 55
It's a law we can live with.

PART 76–4—LOAD LINE CERTIFICATES AND MARKINGS

76–4–1. VALID LOAD LINE CERTIFICATES AND MARKINGS

The validity of load line certificates and procedures and requirements for their renewal are covered by regulations in 46 CFR 42.09–15, 44.01–5 and 45.11. The following load line assignments (i.e., certificates and markings), and no others, are valid:

A. Load lines issued to and marked on United States vessels under the authority of the United States. (Valid for 5 years subject to annual endorsement by assigning authority.)

B. Load lines issued to and marked on foreign vessels under the authority of the United States.

C. Load lines issued and marked under the authority of a foreign government which is a signatory to or has acceded to the International Convention on Load Lines, 1966, to vessels of its own registry. (Valid for 5 years and subject to annual endorsement.)

D. International load lines issued and marked under the authority of a foreign government which is a signatory to or has acceded to the International Convention on Load Lines, 1966, to vessels registered under another Convention government upon the request of that government.

E. Load lines issued and marked under the authority of a foreign government which has load line regulations equivalent to those of the United States and with which an agreement has been reached for reciprocal recognition of load lines. (On this basis, load lines for cargo vessels and tankers on Great Lakes waters issued by the Dominion of Canada are accepted as equivalent to the corresponding United States load lines.)

76–4–5. TYPES OF LOAD LINE MARKS REQUIRED

76–4–5A. LOAD LINE MARKS FOR VESSELS ON OCEAN, OR OCEAN AND GREAT LAKES VOYAGES

Load lines applicable to vessels engaged on ocean, or ocean and Great Lakes voyages, are indicated by a disk with a horizontal line through the center, painted in contrasting color on the sides of the vessel amidships below the deck line. Salt water lines point away from the disk, and the letters, W, S, and T indicate the season (winter, summer, tropical) for which they are applicable. WNA (winter North Atlantic) is applicable only in the winter season to small vessels (less than 328 feet in length). The fresh water lines point toward the disk and indicate the line to which a ship can be loaded in perfectly fresh water and still float on the corresponding salt water line when she reaches salt water. (See 46 CFR 42.13–15 and 42.13–30.) In all cases the top of each line indicates the maximum draft to which the vessel may load in the corresponding service condition.

76–4–5B. LOAD LINE MARKS FOR VESSELS ON GREAT LAKES VOYAGES

Load lines applicable to vessels engaged solely in voyages on the Great Lakes are indicated by a diamond with horizontal lines. These lines point away from the diamond. Vessels which operate on the salt water of the St. Lawrence River must also have salt water lines which point toward the diamond. (See 46 CFR 45.35 & 37.) Vessels marked with ocean load lines, when engaged on a voyage on the Great Lakes, may load to their tropical line in the midsummer season, to their summer line in the summer season, and to the winter line in the winter season. There is no allowance for fresh water (See 46 CFR 45.9).

76–4–5C. LOAD LINE MARKS FOR VESSELS ON SPECIAL SERVICE VOYAGES

Load lines applicable to vessels engaged both in special service voyages on the ocean and in voyages on the Great Lakes, are indicated by a combined circle and diamond with a horizontal line. Seasonal lines point away from the disk. The fresh water line applicable only to ocean voyages points toward the disk (see 46 CFR 44.05–10).

76–4–5D. SUBDIVISION LOAD LINES

Subdivision load lines are marked on passenger vessels requiring them as described in 46 CFR 46.15–10.

76–4–10. DESCRIPTION OF LOAD LINE CERTIFICATES ISSUED UNDER UNITED STATES LAWS

76–4–10A. LOAD LINE CERTIFICATE FORMS

he forms of the various load line certificates are in the load line regulations as follows:

International	46 CFR 42.50–5
International Exemption	46 CFR 42.50–5(e)
Form B	46 CFR 42.50–10(b)
Coastwise	46 CFR 42.50–15
Special Service Coastwise or Inter-island	46 CFR 44.05–35
Great Lakes	46 CFR 45, Appendix A
Subdivision Load Lines	46 CFR 46.10–30

76–4–10B. LOAD LINE CERTIFICATE DATA

The Load Line Certificate includes the following:

(1) Several terms constituting a description of the ship, such as name, length, type "A" or "B," whether "new" or "existing," whether freeboard of type "B" is reduced (subdivision bonus).

(2) Definite specification as to the location of the load lines on the sides of the vessel.

(3) Definite description of the voyages to which the load lines are applicable.

(4) The period of time for which the certificate is valid. This is indicated by dates on the face of the certificate or by endorsement on an attached sheet or reverse side.

(5) Evidence that annual load line inspections have been carried out. Regardless of the expiration date of the Load Line Certificate, loadline inspections are required to be carried out by the assigning authority approximately every 12 months after the original survey. These annual inspections are evidenced by endorsements on the reverse side of the Load Line Certificate and the certificate may be canceled if the inspections are not made. (See 46 CFR 42.07–55.)

(6) A statement that the certificate is issued under the authority of the Commandant, U.S. Coast Guard. Assigning authorities other than the American Bureau of Shipping obtain this authority through a separate letter for each specific vessel. The American Bureau of Shipping has blanket authority to issue Load Line Certificates.

(7) On special service Load Line Certificates the character of cargo and conditions of operation are also defined (46 CFR 44.01–11, 46.10–30, and 46.15–10).

▼ 76–4–15. FOREIGN LOAD LINE CERTIFICATES

The form of the International Load Line Certificate is prescribed in the 1966 Load Line Convention. Certificates issued by assigning authorities for the countries acceding to this Convention (see Plate 76–2–5A.1) have the same information and in the same sequence as that printed on the certificate issued for the United States except that they are written in the languages of the issuing countries and

the dimensions are normally given in the metric system, rather than in feet and inches. To facilitate conversion of metric dimensions to feet and inches, the following figures should be used.

1 meter	=	39.37 inches
1 decimeter	=	3.94 inches
1 centimeter	=	.39 inches
1 millimeter	=	.039 inches

(See the conversion factors in the Master Index, Volume I, of this manual.)

▼76–4–20. FORM B LOAD LINE CERTIFICATES

The only load line certificates for foreign vessels recognized by the United States are those required by the International Load Line Convention, 1966 (ILLC) unless a country is still within the maximum two-year grace period set forth in article 16(4). Dates of entry into force are in Plate 76–2–5A.1. Article 16(4) states that any international load line certificate which is current when ILLC, 1966 comes into force, with respect to the Government of the State whose flag the ship is flying, shall remain valid for two years or until it expires, whichever is earlier. Article 17 of ILLC, 1966, prohibits the issuance of a 1966 International Load Line Certificate to any vessel which is flying the flag of a State, the Government of which is not a contracting Government to the Convention. *Refer to Plate 76–2–5A.1 for parties to the convention.* Therefore, vessels of countries not signatory to ILCC, 1966, must obtain Form B Certificates when within the jurisdiction of the U.S.

76–4–25. EXEMPTIONS

Applicable U.S. statutes and implementing regulations provide for the establishment of load line requirements which give due consideration to, and allow differentials to be made for the service, type, and character of vessels subject to the foreign and coastwise load line laws. The conditions under which an exemption may be granted are found in 46 CFR 42.03–30. For vessels subject to the foreign load line requirements, the exemptions are either specified on the face of the certificate or an exemption certificate is issued. For vessels subject to the coastwise load line requirements, an exemption certificate should never be issued. The nature of the exemption should be placed upon the face of the load line certificate.

PART 76–5—LOAD LINE INSPECTION PROCEDURES

76–5–1. DUTIES WITH RESPECT TO LOAD LINE ENFORCEMENT

As discussed in 76–1–1B and 80–2, it is the duty of customs officers, Coast Guard marine inspectors, COTP Coast Guard marine safety patrols and other marine safety personnel to observe and report if a vessel is or is not in compliance with the applicable International Voyage Load Line Act of 1973 (46 U.S.C. 86—86i) or the Coastwise Load Line Act (46 U.S.C. 88—88i) and the regulations promulgated under these acts (46 CFR parts 42—46 (subchapter E)). To do this, it is necessary to determine if the vessel has a valid Load Line Certificate, if load lines are conspicuously marked, if draft marks are marked forward and aft, and if proper log entries have been made. The vessel may be checked at any time when in U.S. waters. It is necessary in conducting this check however, to determine whether or not the applicable load line was, is, or will be submerged in sea water. This procedure is described thoroughly in subpart 76–5–30. If the applicable load line is submerged, or other indication of an apparent violation of the load line acts is observed, then the matter should be immediately referred to the OCMI, who will assign a qualified marine investigator to conduct an appropriate load line inspection and investigation.

If the inspection indicates that an investigation needs to be conducted, then the following procedures should be followed:

- The amount of the submergence that exists or that will occur in sea water shall be determined.

- The drafts of the vessel forward and aft shall be checked and noted.

- Ascertain, if practicable, whether or not entries have been made in the vessel's log regarding the position of the applicable load line and the drafts forward and aft for the voyage in question and make notes of such entries.

- Also check whether load line entries have been made in the log for a few previous voyages and make notes of such entries, particularly of variations in drafts, and submergence of load lines.

- A note of the serial number of Load Line Certificate, date of issuance, and dates of endorsements, if any, as well as the name of the assigning authority issuing the certificate, shall be made.

- Using form CG-1408, Load Line Inspection Report, the marine investigator shall report the matter to the district commander having jurisdiction, setting forth the findings of the inspection.

- In addition, samples of the water shall be taken and tested. (See 76–5–35.)

76–5–5. PENALTIES

See part 13–5 for load line penalties.

76–5–10. EQUIPMENT NEEDED FOR LOAD LINE INSPECTIONS

▼The following equipment will be needed in conducting a load line inspection. The district commander may requisition this equipment as necessary. Upon request of the district director of customs he shall furnish required load line inspection equipment to the U.S. Customs Service.

1. Current load line regulations (46 CFR subchapter E (parts 42–46 inclusive)), reprinted in CG-176, *Load Line Regulations*.
2. 2 ea. 50 ft. tape measure with plumb bob.
3. Six-foot folding rule.
4. Notebook.
5. Pad of form CG-1408, Load Line Inspection Report.
6. Hydrometers[1,2]
7. Hydrosampler[1,3], to obtain a sample of water.
8. Small jars for samples of water, when necessary.

9. Gage glass 12 inches long with 4 to 6 feet of rubber tubing fitted over glass[1]. (By submerging the tube, almost all wave action can be eliminated.)

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[1] Items are necessary only when close reading of the position of the load line is indicated.

[2] These items must be equivalent to those provided by Fisher Scientific Co., 7722 Fenton Street, Silver Spring, Md., 20910.

Item 6 — Two Hydrometers Required

1. Cat. No. 11-555G
2. Cat. No. 11-555F

[3] Follow procedures in subpart 76-5-35.

76-5-15. WHEN TO CONDUCT LOAD LINE INSPECTIONS

76-5-15A. GENERAL

Since the 1962 amendments to the load line acts, arriving vessels have been subject to check as well as departing vessels. However, the vessel is not subject to citation while in the loading and unloading process as both departure and arrival load line checks apply principally for the purposes of reserve buoyancy and safety while navigating. Thus, as described in 76-5-15C, the inspector is cautioned to warn the master of the vessel and give him a chance to correct his loading prior to departure. Similarly, the arrival check of drafts and marks should be made prior to the start of unloading operations. If the vessel appears to have been overloaded during its voyage, it is essential to obtain the master's explanation while the inspector is present so that the explanation may be checked immediately. For instance, if the explanation involves ballast added during the trip, the inspector should have tanks sounded and attach notes to his report on the total ballast present at the time of his visit. The inspector should note the drafts recorded in the ship's logbooks during the last full voyage.

76-5-15B. LOAD LINE INSPECTION ON VESSEL'S ARRIVAL

When, upon arrival, a vessel is reported to be overloaded, the inspector must take maximum advantage of time. An immediate personal inspection of the condition of the ship before unloading begins must be undertaken by the inspector. The inspector shall note load line immersion on both sides of the vessel and the draft marks at bow and stern (plus the midships draft when so marked); shall warn the master not to allow any water or other material to be pumped overboard (at least until the inspection is complete); and, shall take freeboard readings amidships in way of the Plimsoll mark and get a copy of all tankage i use with weights (or ullages) in each so that a maximum amount of accurate, on-the-spot information will be available to Coast Guard technical representatives in case of an appeal. Experience with several appeals of citations on foreign vessels has indicated that the information taken by the inspector at the time of the violation is most important. Also, if an inspector fails to check all possibilities, testimony and exhibits will be considered incomplete. It is necessary to fully understand the explanations that a master may offer for his apparent overloading, even when a language barrier exists.

76-5-15C. LOAD LINE INSPECTIONS ON VESSEL'S DEPARTURE

For a departure, the loading of a vessel must be completed before the observation is made as to the position of the load line. If loading is not completed and the vessel is down to her load line marks, as a matter of courtesy the vessel's officers should be advised thereof. It should be noted that the responsibility for legal loading rests with the vessel's personnel. A note should be made of the advice given, with rank and name of the officer to whom it was directed, for use in case a penalty is imposed or the vessel is detained. This is applicable to foreign as well as U.S. vessels of 79 feet or more in length.

76-5-20. OBSERVANCE OF LOAD LINE FOR SUBMERGENCE

The position of the applicable salt water load line (on the Great Lakes, the applicable loadline) in respect to the surface of the water must be observed on both port and starboard sides. As there are

No. Docket 243 AUG 25 1981

934-A TD 5.8:Sa1/2/v.5/ch.6 d/cortes

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS
U.S. COAST GUARD (G-MP-5)
WASHINGTON, D.C. 20593
PHONE: (202) 426-9776

•COMDTNOTE 16000

15 JUL 1981

9353

COMMANDANT NOTICE 16000

CANCELLED: 18 JAN 1982

Subj: CH-6 to Volume V - INVESTIGATIONS of the Marine Safety Manual, COMDTINST M16000.3

1. PURPOSE. This Notice transmits a change to Volume V of the Marine Safety Manual by adding Chapter 77 (OCS Investigations) and part 74-6 (Oil Identification Systems), and indicating pen-and-ink corrections to the volume.

2. DIRECTIVES AFFECTED. None.

3. ACTION.

a. Remove and insert the following pages:

Remove	Insert
74-0:1, CH-4	74-0:1, CH-6
74-6:1, CH-4	74-6:1 thru 74-6:12, CH-6
	3rd point Tabbed Divider, "Chapter 77 OCS Investigations"
	77-0:1 thru 77-1:2, CH-6

b. Make the following pen-and-ink corrections:

(1) Section 74-4-10B, p. 74-4:2, add the words "and for Form CG-3639, stock number 7530-01-GF2-5110."

(2) Section 74-4-10C, delete the words "PART XI" and change "PART XII" to PART XI.

c. Make an entry on the Record of Changes page.

DISTRIBUTION - SDL No. 113

	a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s	t	u	v	w	x	y	z
A																										
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* NON-STANDARD DISTRIBUTION: (See page 2.)

COMDTNOTE 16000

15 JUL 1981

4. VOLUME STATUS. To date, the volumes of the Marine Safety Manual have been amended through the following changes:

a. Volume I - CH-8
b. Volume II - CH-6
c. Volume III - CH-3
d. Volume V - CH-6
e. Volume VI - CH-6

5. CHANGES. Suggestions for improvements to the Marine Safety Manual should be submitted on Form CG-5122.

CLYDE T. LUSK, Jr.
Chief, Office of Merchant Marine Safety

Encl: CH-6 to Volume V, Marine Safety Manual

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NTSB (Marine Accidents Division) (2).
ABS (1).
MSC (M-22) (1).

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CHAPTER 74 -- POLLUTION INVESTIGATION

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PART 74-6 -- OIL IDENTIFICATION SYSTEMS

74-6-1. PURPOSE

The oil identification system provides the means to determine if oil found at the scene of a "mystery oil spill" is or is not identical to oil obtained from a potential pollutant source. It can also be used to determine if the spilled oil at one location is the same as the spilled oil at another location. The Federal Water Pollution Control Act and Executive Order 11735 assigns general responsibilities to the Coast Guard for enforcing the anti-pollution discharge laws and regulations in U.S. waters. However, the issuance of anti-pollution legislation cannot in itself eliminate marine oil pollution. Deliberate discharges and many accidental discharges of oil are not always reported to the Coast Guard as required by the law. Consequently, the source is unknown in many of the discharges that are discovered, and, in many others, insufficient evidence exists to prosecute violators and recover cleanup costs. Statistics have shown that about 10,000 oil spills occur each year in this nation. As many as 30 per cent of these spills are "mystery spills" with the actual spiller not being immediately known. The Oil Identification System is designed to provide an aid to Coast Guard investigators in identifying these sources of pollution. As a result of our enhanced detection capability, the system should result in a reduction of deliberate spillage and a reduction in nonreimbursed expenditures of Federal cleanup funds.

74-6-5. OIL SPILL IDENTIFICATION

74-6-5A. GENERAL

There are two concepts for oil spill identification by chemical means: passive and active tagging. The active tagging concept entails the addition of unique "chemical markers" to oils so they can be distinguished. The Coast Guard uses the passive tagging concept because of the near impossibility of actively tagging all oils in the United States. The passive tagging approach relies on intrinsic properties of each oil. Petroleum is a mixture of a multitude of different organic compounds and is formed from various accumulations of organic matter that are chemically converted over long periods of time under great pressure; the variances in these parameters result in distinct chemical differences for oils formed under different conditions with different geological environments and often even within the same crude oil field. Refined oils are fractions from crude oil stock derived, in general, by distillation processes. Two refined oils of the same type (i.e., No. 2 F.O. or No. 4 F.O., etc.) differ because of dissimilarities in their crude oil stock, refining processes, additives, and mixture with other oils. Thus, all petroleum oils, to some extent, are chemically different from each other in composition.

74-6-5B. EMPLOYMENT

The Coast Guard's Oil Identification System was developed to provide the means to determine the unique intrinsic properties that would make it possible to match a spilled oil with only one source oil. This system is designed around four analytical methods: thin-layer chromatography, fluorescence spectroscopy, infrared spectroscopy, and gas chromatography. These analytical methods measure different chemical properties of an oil sample. If two oils are chemically identical, then we say these oils are from a common source. In nearly every case, oils from other suspected sources will be eliminated from consideration as the pollutant source because they are chemically different as determined by these four analytical methods.

The interpretation of the data is not absolutely straightforward because of a complication brought about by chemical alteration of the spilled oil. When an oil is spilled into the water or on the land, several actions begin to change the composition of the oil, which are referred to as "weathering". The term weathering includes such actions as evaporation, dissolution, oxidation, biodegradation, and other chemical reactions. A great amount of research has gone into the study of weathering alterations so that Coast Guard analysts have become familiar with the weathering alteration trends. Of course, the degree of weathering alteration will vary with each particular case and the analyst must account for the degree of alteration that is observed in the data.

The four analytical methods view the composition of oil in different ways. It is important to realize that these methods measure different compositional aspects of an oil and are therefore independent of each other. An explanation of how these methods work and what they measure is described below:

74-6-5B(1). Thin-Layer Chromatography (TLC). This is a method which separates the different components of an oil and presents a colored spot pattern for comparison. Methanol is used to extract selective components from an oil. This extract is placed at the bottom of a silica gel coated glass plate; a number of extracts of different oils are placed in a row along the bottom of the plate. After the separation has been completed, the plate is viewed under ultraviolet light and a colored spot pattern is observed with the eye. Permanent records of this spot pattern can be made with photographs. If the patterns are identical or show changes which have been documented from weathering studies, the samples are said to be from a common source.

74-6-5B(2). Fluorescense Spectroscopy (FL). Spectroscopic methods rely upon chemical absorption and emission of light. The fluorescence method is concerned with the emission of light in the ultraviolet wavelength region. A selected group of compounds called aromatics, which may comprise only a small percentage of a petroleum oil, have the ability to absorb ultraviolet light energy

and then re-emit this energy over a number of different wavelengths. The re-emitted light is detected and recorded as a fluorescence spectrum. This spectrum provides a pattern for comparing different oil samples.

74-6-5B(3). Infrared Spectroscopy (IR). The infrared method views the absorption of infrared light over a spectral region which corresponds to the bond vibrations of the molecules that form the oil. A number of absorptions are common to all petroleum oils; these absorptions allow the analyst to identify the sample as being a petroleum product. Other absorptions are used for uniquely identifying oil samples. The infrared spectrum is recorded on a chart which provides a permanent record of the analytical measurement.

74-6-5B(4). Gas Chromatography (GC). This is a method which separates components of oil primarily on the basis of boiling temperature. The separation of the components are done under controlled conditions such that the same component will be eluted from the gas chromatographic column at the same point in time for all samples. The separated components are detected by two detection systems: one which is sensitive to all of the oil's components; and the other which is sensitive to only those components which contain sulfur. The detector responses are simultaneously recorded on a strip chart which provides two patterns for comparisons with different samples.

74-6-10. EFFECTIVENESS OF COAST GUARD METHODS

The general effectiveness of the Coast Guard's analytical methods have been tested for their ability to uniquely distinguish petroleum oils of the same type. The fluorescence, infrared, and gas chromatographic methods have individually demonstrated their ability to uniquely identify oils with 90 percent reliability. The thin-layer chromatographic method has demonstrated an effectiveness of 60 percent. It should be realized that these numbers indicate a general capability and are not reflective of the ability for a specific oil case. Additionally, the Coast Guard system does not rely upon a single analytical method; rather, we use four different analytical methods each of which has an independent analytical result. The analyst considers the data results from all of the analytical methods in reaching a conclusion for a spill case. The sum of all of the analytical methods has a greater capability to uniquely distinguish oils, thus the combined result is definitely in excess of 90 percent reliability.

The analytical methods are rapidly gaining acceptance among the scientific community. At the present time, the American Society for Testing of Materials (ASTM) has published a series of consensus standards on the identification of waterborne oils including gas chromatography, infrared spectroscopy and fluorescence spectroscopy. These ASTM methods reflect consensus standards developed by the scientific community.

The results of oil spill analyses have been accepted by courts. The analytical methods used by the Coast Guard have successfully employed for both civil and criminal court cases. In these cases the analytical methods have served as aids in identifying the source of spilled oil.

There are limitations in the use of the Oil Identification System. It is important that all personnel who will be using this system are aware of what these limitations are and how many of these limitations can be avoided at the investigative stage. The limitations generally fall under four categories which are discussed in detail below.

74-6-10A. REPRESENTATIVE SAMPLES

To the extent that it is possible, all potential sources must be sampled. Samples which are collected of both the spilled oil and the potential sources must be representative of the oils from which they are taken. There can often be differences of the spilled oil due to contaminants which may already have been on the water, therefore, it is important that more than one sample of the spilled oil be collected at a spill site. The samples of oils from the potential sources must also be representative of the oils carried by those sources. Quite often the analyst will be able to distinguish significant differences between samples of oils taken at different locations in the bilges of a vessel. The investigator must develop a strategy for the collection of samples based on experience and the situation at hand.

74-6-10B. WEATHERING

Quite often extensive weathering differences make it difficult for the analyst to determine if two oils are from a common source to a high degree of certainty. This is because the weathering of the spilled oil has significantly changed the intrinsic chemical properties of the oil sample. In nearly every case this has been the direct result of insufficient sample volume being collected. In all cases, it is important that the investigator collect as much sample as possible for analysis (see subpart 74-3-15 for sampling procedures).

74-6-10C. CONTAMINATION

The addition of contaminants to a petroleum sample, whether these be hazardous chemicals, sewage or other petroleum oils, alters the unique intrinsic qualities of an oil's composition. More often than not, these contaminants will be picked up when a sample has leached through the ground; been in the vicinity of a sewage outfall; taken at a natural collection point that was already contaminated with other pollutants; or is in the vicinity of a chemical plant. Should samples be collected in any of these areas or other locations which may likely contain contaminants, a notation should be made so the analyst may

account for these differences during the analytical and data interpretation stages. Sometimes these contaminants may act as active tags which will further specify the pollutant source.

74-6-10D. INDISTINGUISHABLE DIFFERENCES

There are rare cases in which the analytical methods cannot distinguish significant differences between the spilled oil and more than one potential pollutant source. In these cases, the analyst will specify in the report the fact that more than one potential source were from a common source as the spill sample. Such an instance has only occurred in about 1 percent of all cases in which sample analyses were made by COIL.

74-6-15. ANALYSIS LABORATORIES

The oil identification system is designed with two levels of laboratory analyses. These are the Field Oil Identification Laboratory (FOIL) and the Central Oil Identification Laboratory (COIL). Both types of laboratories are designed to provide accurate information to aid Coast Guard investigators. The reason two different laboratory systems are available is that investigators have differing requirements for each oil spill case.

74-6-15A. FIELD OIL IDENTIFICATION LABORATORY

The Field Oil Identification Laboratory provides rapid and reliable analyses for straightforward oil spill investigations. A FOIL is staffed by Coast Guard technicians who have undergone training at Reserve Training Center, Yorktown in the procedures for analyzing and interpretating the data by thin-layer chromatographic and fluorescence spectroscopic techniques. These methods are the only ones which are used by a FOIL as analysis procedures.

A FOIL should be used in those cases where the analytical data will not be the only evidence for prosecuting a case and when more than 1 teaspoon of oil is available for all analyses. It is very important to note that FOIL results are <u>not</u> designed for use as the sole evidence against a suspected pollutor. In such cases COIL results will provide more useful data. The sample volume restriction reflects one of the rigid limitations which are imposed upon FOIL procedures. Only samples with a sufficient volume and minor degree of weathering are within the capability of the FOIL system. The FOIL technician works within rigid limitations for all interpretations. These results will fall within specific guidelines that are allowed within the analytical method and the results will follow these guidelines or will be forwarded to COIL should the data suggest inconsistent results or extensive weathering. Under proper conditions, FOIL will be able to provide reliable analysis results which can be used as supportive evidence for routine oil spill cases.

74-6-15B. CENTRAL OIL IDENTIFICATION LABORATORY

The Central Oil Identification Laboratory is designed to provide reliable analysis results and provide expert witness support for nearly every oil spill situation. COIL is staffed by trained chemists and technicians. All analytical methods are used by COIL, which provides an extensive analysis of samples in support of investigators.

COIL is used for all cases where the analytical results will provide the only or primary evidence in a case. Also, COIL will be used where samples contain only a small volume of oil, samples are suspected of being very light fuel oils (e.g., kerosene or gasoline), contamination is suspected, or extension of the FOIL data is desired. COIL chemists are able to provide a broader interpretation of the data because of the more extensive analyses that are performed and their broader experience level. The data interpretation will still conform to rigid guidelines; however, a more extensive capability to account for small sample volumes, intense weathering, contamination, and non-routine situations are all within the capability of COIL. The more extensive analytical analysis and data interpretation capability make COIL the laboratory of choice for those cases where analytical results will be the primary evidence for an oil spill prosecution.

74-6-15C. OTHER LABORATORIES

Other university and commercial laboratories have done Coast Guard analyses in the past. Several major problems have resulted from the use of these laboratories. The analytical methods and data reports have not been consistent in their content. Some of the data from these laboratories have been of poor quality and the experience level of the analyst has generally been poor in the field of oil spill identification. There have been documented cases where a laboratory has been in a conflict-of-interest situation. The Coast Guard needs consistent, uniform and reliable results, and these are provided by the Coast Guard Oil Identification System. The Coast Guard laboratories should be the only ones used by Coast Guard investigators.

74-6-20. ANALYSIS REPORT

An analysis report is sent to the investigating unit by the COIL or FOIL lab. Upon completion of the analyses and data interpretation, a standard format report is prepared that summarizes sample custody, analysis procedures and data conclusions. Standard terminology is used for describing the data results so that all Coast Guard reports, laboratories and personnel express their results in a consistent manner. On occasion, individuals outside the Coast Guard have questioned the meaning of certain terms; however, uniform terminology permits all Coast Guard personnel to communicate the same meaning among themselves and to others. Definitions of these terms are presented later

in this discussion. Uniform reports provide an easily understood communication from the laboratory analyst to those individuals who use the Oil Spill Identification System.

74-6-20A. FOIL REPORT

The laboratory report for a FOIL analysis follows the format in the FOIL Manual, COMDTINST M16460.6. The report includes the report forms, Part A and B, worksheets for the TLC and FL analyses, and the original or photocopies of the data. The complete report contains information about sample identity, analysis, data and conclusions. A complete record of the analysis for any future reference is available for all needs.

74-6-20B. COIL REPORT

The laboratory report for a COIL analysis is a self-contained document and includes an expert opinion by a trained chemist. The report includes the following: letter report; check-in-log; summary of analysis; spill case documentation (request, sample shipment, chain-of-custody, etc.); quality assurance; worksheets and photocopies of the data. The entire report provides a complete record of the sample identity, analyses and results.

74-6-20C. EXPLANATION OF TERMS

The use of the standard terminology for reporting the results of analyses provides the best means to communicate the analysis conclusions. The results are reported as individual data comparisons and as overall conclusions. The terms used for individual data comparisons, as defined in the FOIL Manual, are generalized below:

74-6-20C(1). Match (M). Comparison of the data shows the samples to be virtually identical. Data which are identical or show minor analytical differences that are directly attributable to weathering are assigned this designation. This designation is the strongest degree of similarity that can be observed.

74-6-20C(2). Probable Match (PM). Comparison of the data shows the samples to be extremely similar. Data which show moderate analytical differences that are directly attributable to weathering are assigned this designation. Specific instances where contamination does not mask the data may permit this designation. This designation is a strong degree of similarity that indicates that the samples are from a common source.

74-6-20C(3). Indeterminate (I). Comparison of the data shows the samples to be similar, but because of differences which might be due to intense weathering changes and/or contamination, the analyst does not feel that a probable match or non-match designation is appropriate. This term is not as well defined because it may indicate slightly more weathering than a probable match or may be suggestive of a non-match but strong similarities still indicate the samples may be from a common origin. Gross contamination may make any comparison impossible or moderate contamination may still permit a strong similarity to be apparent.

The mixture of two oils in different proportions may still allow similarities to be observed or may make all comparisons questionable. The analyst will often make comments as to the reasoning for this designation. The designation does not preclude the possibility that two samples are from a common source.

74-6-20C(4). Non-Match (NM). The data are dissimilar.

74-6-20D. CONCLUSIONS

The overall conclusions for an analysis are derived from the summation of all of the individual data comparisons; the format for these conclusions is different for FOIL and COIL reports because of the different analytical capabilities and experience levels. The FOIL report utilizes the M, PM, I and NM data comparison designations as previously defined. The report assigns the lower degree of comparison for the two techniques (TLC and FL) as the overall results, or can assign an indeterminate conclusion because of the data conflict or extent of weathering and refer the case to COIL. The COIL report is more flexible in the description of the analysis conclusion. The COIL chemist has more extensive data to make appropriate comments concerning the state of the samples and to offer an expert opinion as would be presented to a court. The terminologies used in a COIL report are the following:

74-6-20D(1). "Suspected source sample 2 and spill sample 1 indicate that they are from a common source to a high degree of certainty."

74-6-20D(2). "The comparison of suspected source sample 3 and spill sample 1 are inconclusive. The inconclusive data is the direct result of the condition/ intensive weathering/contamination/overall similarity of the samples. This conclusion does not preclude the possibility that these samples were from a common source."

74-6-20D(3). "Suspected source sample 4 and spill sample 1 are not from a common source."

The conclusions derived from the data are greater than the sum of the individual comparisons. The more extensively a sample is analyzed, the more the chemist is able to understand weathering and contamination effects.

74-6-25. INFORMATION REQUIRED BY LABORATORIES

The analysis laboratories require some basic background information before they can carry out an analysis. Some of the information is for documentation purposes and the other directly concerns the data interpretation. The information requirements are discussed by subject below:

74-6-25A. SAMPLES

The most important requirement is that adequate and representative samples be collected. Samples from thin slicks are the most difficult to obtain properly. A minimum of 1 teaspoon is required in order to perform all of the analytical tests. When less than 1 teaspoon is received, several resulting effects occur: some tests cannot be run and reduce the overall certainty; intense weathering changes normally occur which result in a lower degree of similarity; and the sample has a greater possibility of being less representative. A little more effort in the collection of the sample could result in a significant improvement in the results.

74-6-25B. CHAIN-OF-CUSTODY

Before any sample analysis can be considered for evidence, demonstrable chain-of-custody is required. The first step is a sample identity tag with an adequate sample description. A record of sample transfers is also necessary. COMDTINST 16450.1 and section 74-3-20B of this manual specify the recommended sample identity tags to achieve this requirement. A DD Form 1149 provides a means for each transfer of samples to be recorded by units. This should be enclosed with the samples when they are transferred.

74-6-25C. PAPERWORK

With each spill case for analysis, a forwarding letter should be sent. The letter should specify the PIRS pollution case number, the number of samples forwarded, and identify those samples that are representative of the spilled oil. If there are any special circumstances which could affect the sample analysis, they should be so stated. For instance, samples that may likely have been contaminated by sewage, have been in contact with the soil, may contain hazardous or unknown chemicals, or might have been subjected to any situation that may be useful for the analyst to be aware of should be noted in the forwarding letter.

74-6-25D. SHIPMENT OF SAMPLES

The samples must arrive intact, not tampered with and free of contamination. The containers, packaging instructions and shipment modes for oil samples are specified in section 74-3-20E. Take care that sample lids are securely closed and that sample jars are firmly packed so that they will not break in shipment. The use of recommended sample jars and shipment containers will eliminate most packaging and shipping difficulties.

74-6-25E. LONG-TERM STORAGE

There will be occasions when samples must be stored for long periods of time (greater than three months) until a case is administratively resolved. COIL maintains a large refrigerator that can be used for long-term storage of samples under controlled conditions. Units requiring longterm storage should contact COIL before sending the samples.

74-6-30. QUALITY ASSURANCE

A quality assurance program is an important means to maintain the high standards of the Oil Identification System. The quality assurance program has three parts: training, experience, and review.

74-6-30A. TRAINING

Uniform training programs are established to teach the fundamental procedures and data interpretation. The FOIL personnel are taught at RTC Yorktown. This is the only acceptable means for untrained personnel to be instructed in FOIL methods. Personnel are not to be trained by other FOIL technicians; this does not constitute a proper or adequate training course. Continuity in training is an important aspect that is available through RTC Yorktown. The COIL personnel and RTC Yorktown instructors are trained at COIL. The uniform training programs are the basis from which the credibility of the Oil Identification System is initiated.

74-6-30B. EXPERIENCE

Experience is the next step in maintaining an effective system. The experienced technician will become more skillful and adept in data interpretation through participation in analyses. Technicians should be routinely involved in analyses so they can maintain their basic knowledge of the methods and improve their general ability. If one has been away from the procedures analysis for a long period of time, retraining will be necessary. Retraining by RTC Yorktown or COIL may be arranged on an individual basis. High experience levels for technicians will result in skillful and knowledgeable analyses.

74-6-30C. REVIEW

Routine review of the procedures and data interpretation provide a means to improve experience, strengthen training and, in extreme cases, correct deficiencies. COIL is tasked with providing the review function for the FOIL units. It is the responsibility of each FOIL unit to determine its own capability and if extra assistance is desirable. The regular review function provided by COIL will include oncall assistance, routine review and annual on-site training and review.

74-6-30C(1). On-call Assistance. An experienced individual will always be available for consultation concerning any aspect of an analysis. Should any questions arise concerning sample analysis, instrument performance/breakdown or any other matter, COIL personnel will recommend a solution or initiate appropriate action. This assistance will be useful for the non-routine analysis situation. If in doubt, call for a second opinion.

74-6-30C(2). Routine Review. COIL will send each FOIL a packet on a routine schedule for review of the procedures. The contents may be a performance test of the instruments, a questionnaire, sample data for comparison or samples for a complete analysis. After the packet is returned to COIL, a review of the results will be sent to each FOIL unit. The intent of these exercises is to review the basic procedures of the FOIL analysis as a matter of routine.

74-6-30C(3). Annual On-site Training/Review. COIL will visit each FOIL lab on an annual schedule to provide personal training and review of the FOIL procedures. The visit will be scheduled in advance with the FOIL unit. A synopsis of the program will precede the visit so that each individual will be aware of the topics for discussion. In general, all personnel who are directly involved in the FOIL operation should be available for this program. General operating procedures, changes to the procedures, demonstrations of proper techniques, evaluation of the instrument performance and review of data interpretation will be addressed. This is the opportunity to review procedures, discuss problems and difficulties and to become more skillful so that a well-operating laboratory can be maintained.

There will be instances when the FOIL unit may feel that an on-site visit is desired to correct/improve current practices because rapid personnel turnovers or a low experience level may be detrimentally affecting the performance of a FOIL lab. Should this be the case, COIL will arrange to reschedule the annual visit or provide a special visit to assist in any manner that is requested. Contact should be made with the Commanding Officer, CG Oceanographic Unit to schedule such a visit.

74-6-35. ORGANIZATION

The functional description of duties of each organization involved in the Oil Identification System are listed below:

COMDT (G-WPE)
1. Program Manager;
2. Set objectives;
3. Overall program coordination.

CG OCEANO
1. Central Oil Identification Laboratory analysis of spill cases;
2. Quality control;
3. Case referrals from FOIL units;
4. Training RTC instructors;
5. Forensic support (expert witness as to validity of system - support to legal);
6. Consultation/advice to RTC and FOIL labs;
7. Repairs to FOIL instrumentation;
8. Annual report (including cost-benefits analysis of system).

FOIL LABS
1. FOIL analysis of spill cases;
2. Case preparation (procedures, chain-of-custody, data);
3. Preventive and routine maintenance;
4. Sample transmittal (chain of custody and physical integrity).

RTC
1. Train FOIL lab personnel.

R&D CENTER
1. Back-up analysis (using advanced techniques);
2. Forensic support (expert witness);
3. Consultation/advice to COIL;
4. Continued oil identification system R&D.

COMDT (G-EOE)
1. Installation of new FOIL lab spaces;
2. Update of laboratory safety procedures and equipment to reflect modification of present OSHA requirements.

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CHAPTER 77

OCS INVESTIGATIONS

Part 77-1 ..... Casualties and Discrepancies
77-1-1 ..... Introduction
77-1-5 ..... Awareness of Discrepancies
77-1-10 ..... Relations With USGS
77-1-15 ..... Relations With OSHA

PART 77-1 -- CASUALTIES AND DISCREPANCIES

77-1-1. INTRODUCTION

Section 22 of the Outer Continental Shelf Lands Act Amendments (43 U.S.C. 1348) requires investigation of every death, serious injury, major fire, pollution incident, and alleged violation of safety regulations issued pursuant to the act, which occurs as a result of activities on the OCS (including foreign activities). Subpoena power is available to aid such investigations.

77-1-5. AWARENESS OF DISCREPANCIES

A general revision of the regulations in 33 CFR 140-146 (Subchapter N) is under development; this revision will include guidance concerning notice and investigation of OCS discrepancies and casualties. The proposed criteria for notification of the Coast Guard by owners, operators, or persons-in-charge are as follows:

(A) The appropriate person shall notify the cognizant OCMI immediately, by the most rapid means available, when a casualty occurs which involves death or injuries to five or more persons (as a result of a single incident).

(B) The appropriate person shall notify the OCMI as soon as possible when a casualty occurs which involves:

(1) Any damage affecting the usefulness of primary lifesaving or fire-fighting equipment;

(2) Damage exceeding $25,000 resulting from collision by a vessel;

(3) Damage to a floating installation which exceeds $25,000; or

(4) Injuries to any person which result in incapacitation for longer than 72 hours.

Until final revision of Subchapter N is completed, these proposed criteria cannot be enforced (except as provided for by 33 CFR 146.01-20). However, all accidents meeting the criteria above which are reported to the Coast Guard shall be thoroughly investigated, insofar as practical, in accordance with the provisions of 46 CFR 4 and Chapters 70 and 72 of this manual.

77-1-10. RELATIONS WITH USGS

Because of the closely related responsibilities of the U.S. Geological Survey (USGS), all OCS investigations should be coordinated with USGS officials, particularly in those instances involving well-drilling and extraction operations or systems. Coast Guard representatives may participate in USGS investigations, and vice versa, in capacities which include but are not limited to:

- Joint on-scene investigations;
- Making recommendations concerning the scope of subsequent investigations;
- Calling and examining witnesses; and
- Submitting or seeking additional evidence as the investigation progresses.

77-1-15. RELATIONS WITH OSHA

A memorandum of understanding between the Coast Guard and the Occupational Safety and Health Administration (OSHA), dated 19 December 1979, provides for cooperation between the two agencies in identifying violations of safety and health regulations which have caused or which may cause injuries or deaths during activities conducted pursuant to the OCS Act. Specifically, paragraph IV A.2 provides that the Coast Guard will review allegations from any person of violations of health or safety regulations or other unsafe working conditions; paragraph IV A.4 provides that the Coast Guard will investigate and publicly report on deaths or serious injuries occurring on the OCS, and may investigate and report on other casualties, deaths, and injuries.

Apparent violations of OSHA regulations which are identified in casualty investigations shall be promptly reported to the district commander, who will evaluate the case noting applicable Coast Guard, OSHA, and USGS requirements which address the situation. When the cause of the casualty is determined to be an apparent violation of OSHA regulations, the district commander will notify the appropriate OSHA office (see Chapter 18, Volume I; and Chapter 38, Volume II of this manual).

335-157 9346 2 7 1981 9344 Coast Guard TD 5.8:Sa1/2/v.5/ch.7

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

MAILING ADDRESS:
Commandant (G-MP-4/MSM)
U.S. Coast Guard
Washington, D.C. 20593
(202) 426-9776
COMDTNOTE 16000

9 SEP 1981

9353

COMMANDANT NOTICE 16000

CANCELLED: 9 MAR 1982

Subj: CH-7 to Volume V - INVESTIGATIONS of the Marine Safety Manual, COMDTINST M16000.3

1. PURPOSE. This Notice transmits a change to Volume V of the Marine Safety Manual by revising Chapter 72 (Marine Casualty Investigations) of the volume.

2. DIRECTIVES AFFECTED. None.

3. DISCUSSION. Particular attention should be paid to the following areas:

   a. Section 72-1-25B discusses new reporting criteria effective 1 January 1981.
   b. Plate 72-2-1A.1 provides a sample notification checkoff list for significant casualties.
   c. Subpart 72-2-25 requires notification of the Commandant when a casualty report is not completed within six months.
   d. Subpart 72-3-40 updates guidance on relations with members of the news media.
   e. Section 72-3-50C revises the opening statement made by the chairman of a marine board of investigation.
   f. Section 72-4-5B updates guidance on routine investigations.
   g. Paragraph 72-5-1C(1) includes damage estimate requirements for Form CG-2692.
   h. Paragraph 72-5-5A(6) provides elements of a steering casualty report.
   i. Section 72-5-15A stresses the need for concisely written narrative reports.
   j. Paragraph 72-5-20B(2) discusses contributing causes of a casualty.
   k. Section 72-5-20D provides new guidance on conclusions on evidence of culpability.

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NON-STANDARD DISTRIBUTION: (See page 2)

3. l. Section 72-5-25C provides guidance on recommendations as to charging and citing.
   m. Subpart 72-5-40 discusses submission of reports when district review is required.
   n. Section 72-5-50B revises policy on submission of reports of accidental death.
   o. Section 72-6-45B identifies when reports involving loss of life are considered complete.
   p. Section 72-6-45C identifies when reports involving other cases are considered complete.

4. ACTION.

   a. Remove pages 72-0:1 thru 72-7:2 and insert pages 72-0:1 thru 72-7:2, CH-7.

   b. Make an entry on the Record of Changes page to the volume.

5. CHANGES. Suggestions for improvements to the Marine Safety Manual should be made on Form CG-5122.

CLYDE T. LUSK, Jr.
Chief, Office of Merchant Marine Safety

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NTSB (Marine Accidents Division) (2).
ABS (1).
MSC (M-22) (1).

PART 72-1--MARINE CASUALTY INVESTIGATIONS--GENERAL PROVISIONS

72-1-1. LEGAL AUTHORITY

72-1-1A. INVESTIGATING MARINE CASUALTIES AND CASUALTIES TO ARTIFICIAL ISLANDS AND FIXED STRUCTURES

The authority for investigating marine casualties and boating accidents is in 46 U.S.C. 239 (R.S. 4450, as amended), and the regulations promulgated thereunder, 46 CFR 4. The authority for investigating casualties to artificial islands and fixed structures on the Outer Continental Shelf is derived from 43 U.S.C. 1333. Policy on boating accident investigations is treated separately in Chapter 75 of this manual.

72-1-1B. AUTHORITY FOR NOTICE AND REPORTING OF MARINE CASUALTIES, AND REPORTING OF CASUALTIES TO ARTIFICIAL ISLANDS AND FIXED STRUCTURES

The authority to require a notice of marine casualty is contained in 33 U.S.C. 361-366, 46 U.S.C. 1486, and the implementing regulations, 46 CFR 4.05, 35.15, 78.07, 97.07 and 185.15. The authority to require the reporting of marine casualties is the same as that required for the notice. The authority to require the reporting of casualties to artificial islands and fixed structures is in the Outer Continental Shelf Lands Act (43 U.S.C. 1333) and implementing regulations contained in 33 CFR 146.01-20.

72-1-5. PURPOSE OF MARINE CASUALTY INVESTIGATIONS

72-1-5A. CAUSE AND RESPONSIBILITY

An important purpose of marine casualty investigations is to obtain information for the prevention of similar casualties, as far as practicable. It is necessary that the cause(s) of the casualty be determined as precisely as possible in order that detailed factual information will be available for review and statistical studies. It is not sufficient to know only <u>how</u> a casualty occurred; it must also be clear <u>why</u> it happened. Based on this information, appropriate corrective measures, regulations, and standards of safety may be developed and instituted, or legislation for marine safety may be recommended, if needed.

Some casualties are the result of a single cause, but most result from a combination of factors and conditions. For the investigating officer to make a full evaluation of the case, he must obtain sufficient information to reconstruct the pertinent events leading up to the casualty. This is true even if the case is closed through a letter-transmittal form (CG-2692 or CG-924E). See sections 72-8-1A and 72-9-5A for guidance in obtaining pertinent information to evaluate specific types of casualties.

72-1-5B. DETERMINATION AS TO VIOLATIONS

An equally important purpose of these investigations is the determination as to whether or not there is any evidence of violation of law or regulation or if any basis exists for the institution of suspension and revocation proceedings.

72-1-10. CIVIL AND CRIMINAL RESPONSIBILITY

Marine casualties are not investigated for the purpose of fixing civil or criminal responsibility or to assist in the determination of any issues involving private interests. When evidence of a criminal act is developed from an investigation of a marine casualty, such evidence shall be referred to the U.S. Attorney General through the Commandant, as required by 33 CFR 1.07-15, 33 CFR 1.07-19, and 46 CFR 4.23-1 (see section 72-2-55A for reference to U.S. attorneys.)

72-1-15. LEGAL ASSISTANCE TO INVESTIGATORS

If necessary, the officers conducting investigations may call on the district legal officer for assistance in resolving legal questions which may arise in the course of an investigation.

72-1-20. INVESTIGATIVE REFERENCE MATERIAL

72-1-20A. LAWS, RULES AND REGULATIONS

Investigating officers conducting investigations pursuant to 46 CFR 4 should have a thorough knowledge of the marine safety statutes and the regulations promulgated by the Coast Guard, with regard to the activities of the merchant marine, which will be found in Titles 33 and 46 of the Code of Federal Regulations. As custodians of records, investigating officers should be thoroughly familiar with the Department of Transportation regulations contained in 49 CFR 7 and 49 CFR 10, which implement the Freedom of Information Act and the Privacy Act respectively (see part 8-7, Volume I of this manual). Investigating officers should also have at hand for reference purposes Titles 33 and 46, U.S. Code Annotated, with latest supplements. In addition, investigating officers should be familiar with the Coast Guard publication Laws Governing Marine Inspection, CG-227. This publication contains the basic inspection laws as set forth in Title 52 of the Revised Statutes of the United States, as amended, R.S. 4399 to 4500, inclusive, as well as certain pertinent supplementary statutes.

72-1-20B. REFERENCE TEXTS

The following texts may be studied and used for reference:

- Arzt, Marine Laws, Navigation and Safety;
- Griffin on Collisions;
- Farwell-Prunski, The Rules of the Nautical Road;
- Gilmore and Black, Law of Admiralty;
- Norris, The Law of Seamen;

- Knight, Modern Seamanship;
- Dutton, Navigation And Piloting;
- Bowditch, American Practical Navigator;
- Manual for Courts-Martial, United States, 1969 (revised);
- Coast Guard Supplement to the Manual for Courts-Martial, United States, (CG-241);
- Parks, Law of Tug, Tow And Pilotage.

72-1-25. COMMON TERMS

The terminology employed in 46 CFR 4 also applies in this chapter.

72-1-25A. COMMERCIAL VESSEL

For the purposes of this chapter, the term "commercial vessel" shall be used to distinguish vessels engaged in merchant or commercial service from those which are operated solely for recreational purposes.

72-1-25B. MARINE CASUALTY OR ACCIDENT, GENERAL

A marine casualty or accident is defined in 46 CFR 4.03-1. In accordance with 46 CFR 4.05-1, notice to the Coast Guard is required whenever the casualty involves any of the following:

(1) All accidental groundings and any intentional groundings which also meet any of the other reporting criteria or create a hazard to navigation, the environment, or the safety of the vessel;

(2) Loss of main propulsion or primary steering, or any associated component or control system, the loss of which causes a reduction of the maneuvering capabilities of the vessel. Loss means that systems, component parts, subsystems, or control systems do not perform the specified or required function;

(3) An occurrence materially and adversely affecting the vessel's seaworthiness or fitness for service or route, including but not limited to fire, flooding, or failure or damage to fixed fire extinguishing systems, lifesaving equipment, auxiliary power generating equipment, or bilge pumping systems;

(4) Loss of life;

(5) Injury causing a person to remain incapacitated for a period in excess of 72 hours;

(6) An occurrence not meeting the above criteria but resulting in damage to property exceeding $25,000. Such damage includes the cost necessary to restore the property to the service condition which existed prior to the casualty, including the cost of salvage, gas-freeing, and drydocking. It does not include such items as demurrage.

72-1-25C. MARINE CASUALTY OR ACCIDENT, CLASSES OF

Certain marine casualties have been classed to facilitate advance reporting to Commandant (G-MMI-1) and appropriate agencies outside the Coast Guard. These classes are as follows:

72-1-25C(1). Major Marine Casualty. This term identifies those marine casualties or recreational boating accidents (see subpart 75-12-1 for definition) which meet the criteria contained in the joint Coast Guard/National Transportation Safety Board (NTSB) regulations, which require the Commandant to notify the NTSB of the casualty. These criteria, set forth in 46 CFR 4.40-5(d), state that a major marine casualty involves a vessel other than a public vessel (as defined in 46 CFR 4.03-40) and results in:

- The loss of six or more lives;
- The loss of a mechanically-propelled vessel of 100 or more G.T.;
- Property damage initially estimated at $500,000 or more;
- Serious threat, as determined by the Commandant and concurred in by the NTSB chairman, to life, property, or the environment by hazardous materials.

See subpart 72-2-5 and section 75-5-10B for guidance concerning direct notification to Commandant (G-MMI-1) of all major marine casualties, and section 72-2-55D for further discussion of the NTSB.

72-1-25C(2). Public/Non-Public Vessel Casualty. Under the CG/NTSB joint regulations, the Commandant must notify the NTSB of all casualties involving public and non-public vessels which otherwise do not meet the criteria for being classed as a major marine casualty. See subpart 72-2-5 and section 75-5-10B for guidance concerning direct notification to Commandant (G-MMI-1) of all public/non-public vessel casualties. Information on conducting investigations of public/non-public vessel casualties is found in section 72-2-55B.

72-1-25C(3). Serious Casualty (IMCO). The Intergovernmental Maritime Consultative Organization (IMCO) has defined a "serious casualty" as an occurrence involving vessels of 1600 G.T. or more which results in the total loss (including constructive total loss) of one or more vessels or loss of life. A copy of all casualty reports on U.S. vessels involved in casualties meeting the IMCO definition will be submitted to IMCO by Commandant (G-CPI).

72-1-25C(4). Significant Marine Casualty. This term identifies those marine casualties which require advance reporting to Commandant (G-MMI-1) but which do not necessarily meet the criteria of a major marine casualty as established in paragraph 72-1-25C(1). Significant marine casualties include but are not limited to:

- Multiple loss of life resulting from a vessel casualty;
- Single loss of life resulting from a vessel casualty caused by unusual or extraordinary circumstances;

- A marine casualty likely to receive national press attention;
- A threat or potential threat of hazard to life, property, or the environment resulting from a vessel casualty (e.g., sinking of a chlorine barge);
- Loss of an inspected vessel.

A significant casualty may also be determined to be a major marine casualty at a later time. See subpart 72-2-1 for guidance concerning direct notification of Commandant (G-MMI-1) for all significant casualties.

72-1-25D. NAVIGABLE WATERS OF THE UNITED STATES

This definition is contained in 33 CFR 2.05-25.

72-1-25E. PARTIES IN INTEREST

72-1-25E(1). A party in interest is any person whom the marine board of investigation or the investigating officer finds to have a direct interest in the investigation being conducted. A person is a party in interest by reason of his position or his part in the casualty. Normally, parties in interest include, but are not limited to, vessel owners, operators, masters, bareboat charterers or their agents, etc. In addition, licensed or certificated personnel whose conduct in a marine casualty or accident is under investigation by a marine board of investigation or an investigating officer shall be made parties in interest.

72-1-25E(2). Rights Of Parties In Interest. All parties in interest at marine casualty investigations, whether conducted by an investigating officer or by a marine board of investigation, shall be accorded all the rights to which they are entitled. These rights are set forth in R.S. 4450, as amended (46 U.S.C. 239), and should be explained at the beginning of an investigation (see 46 CFR 4.07-7).

72-1-25E(3). Reason For Naming A Party In Interest. A person is named a party in interest so that he has the opportunity to protect himself if facts develop that are of a nature adverse to him. A party in interest can and should also be named during an investigation if it appears that he may in any way be responsible for or have contributed to the cause of the casualty under investigation.

72-1-25E(4). Persons or Organizations Not Ordinarily Considered Parties in Interest:

- Cargo interests such as manufacturers, owners, shippers, or time and space charterers are not parties in interest, unless there is an indication that the cargo caused or contributed to the cause of the casualty;

- Representatives of persons who have lost their lives in the casualty are not parties in interest, unless the deceased would have been a party in interest under paragraph 72-1-25E(1) above;

- Underwriters (insurers) are not parties in interest unless at the time of the investigation they have, by subrogation, succeeded to the rights of parties in interest;

- Unions, in general, are not parties in interest.

72-1-25F. PERSONAL INJURY REPORT

A personal injury report is the written report required for personal injury or death, made on Form CG-924E.

72-1-25G. RECORD OF VESSEL CASUALTY INVESTIGATIONS

The composition of a complete record of casualty investigation is defined in section 72-6-35C.

72-1-25H. REPORT OF VESSEL CASUALTY INVESTIGATIONS

The report of a casualty investigation is the report of the results of the investigation required to be submitted by the investigating officer, or marine board of investigation, to the Commandant in accordance with 46 CFR 4.07-10 and 4.09-20. The report may be in narrative form (which will consist of the investigative body's findings of fact, conclusions, and recommendations) or it may consist solely of Form CG-2692 and/or Form CG-924E, and the admininstrative letter of transmittal. The investigation and report are complete when endorsed by the OCMI and/or the district commander, except in cases involving deaths. These cases become complete only after the appending of the Commandant's Action. Marine boards of investigation report directly to the Commandant. Their report is complete only after the Commandant's Action is appended.

72-1-25I. REPORT TRANSMITTAL LETTERS

Report transmittal letters are investigating officers' transmittal letters used to forward personal injury reports and vessel casualty reports to the Commandant.

72-1-25J. SUBPOENA DUCES TECUM

A subpoena duces tecum is a subpoena issued for service upon the custodian of certain records or documents which are desired for evidence purposes. It orders the custodian to appear with specified books, papers, records, or documents so that they may be used as evidence and be admitted into the record.

72-1-25K. SUBROGATION

Subrogation is the substitution of one person in the place of another with reference to a lawful claim, demand, or right so that he who is substituted succeeds to the rights of the other in relation to the debt or claim and its rights, remedies, or securities.

72-1-25L. VESSEL

The word "vessel" includes every description of watercraft, including non-displacement craft and seaplanes, used or capable of being used as a means of transportation on water. A vessel under new construction is not considered a "vessel" until it is launched. However, drydockings subsequent to the original launching do not interrupt a ship's status as a "vessel."

72-1-25M. VESSEL CASUALTY REPORT

A vessel casualty report is the written report required for vessel casualties, made on Form CG-2692.

72-1-30. AWARDS AND COMMENDATIONS

Recommendations by marine boards of investigation or investigating officers for official recognition of heroic, distinguished or meritorious acts should be made the subject of a separate report and should not be included in a report of investigation (see paragraph 72-5-20E(8) of this manual).

72-1-30A. COMMANDANT AWARDS

Sections 500-501 of Title 14, U.S. Code authorize the Commandant to award Gold and Silver Lifesaving Medals to persons who, at the risk of their own lives, rescue or endeavor to rescue any other person from drowning, shipwreck or other peril of the water. To be eligible, the rescue or attempted rescue must take place in waters within the U.S. or subject to the jurisdiction thereof, or if the rescue or attempted rescue takes place outside such waters, one or the other of the parties must be a citizen of the United States or from a vessel or aircraft owned or operated by citizens of the U.S. Administrative details pertaining to such awards are in the Medals and Awards Manual (CG-207-2) and 33 CFR 13.

72-1-30B. MARITIME ADMINISTRATION AWARDS

72-1-30B(1). The Secretary of Commerce, with the concurrence of the Secretary of Transportation, is authorized by 46 U.S.C. 249 to issue to U.S. merchant marine personnel the Merchant Marine Distinguished Service Medal, for persons who distinguish themselves by act, conduct or valor beyond the line of duty, and the Merchant Marine Meritorious Service Medal, for persons who perform a meritorious act, conduct or service in the line of duty.

72-1-30B(2). In addition, the Secretary of Commerce, with the concurrence of the Secretary of Transportation, may issue a plaque to any U.S. or foreign ship which participates in outstanding or gallant action in a marine disaster or emergency for the purpose of saving life or property. The Secretary may also award an appropriate citation ribbon bar to the master or each person serving on board such ship at the time for which citation is made. Communications by persons other than Coast Guard employees should be addressed to: Chairman, Merchant Marine Awards Committee, Office of Maritime Manpower, Maritime Administration, Washington, D.C. 20230. Recommendations by Coast Guard personnel should be addressed to Commandant (G-MMI-1).

72-1-30C. DEPARTMENT OF STATE AWARDS

The Department of State, on the basis of recommendations submitted by consular officers, issues awards to masters or crews of foreign vessels when U.S. citizens or seamen have been rescued from shipwreck or other catastrophe at sea. Acknowledgment of such services will usually be made in the name of the President by the Department of State, and rewards of gold watches, binoculars, or medals will be made to the persons effecting the rescue in accord with the rank and merit of those participating.

72-1-30D. LETTERS OF COMMENDATION

In those cases where recommendations for awards have been made but the appropriate committee finds the requirement standards are not fully met, a letter of commendation may be issued. In those cases that do not warrant consideration for a medal or award, the investigating officer and/or OCMI may recommend that the district commander issue a letter of commendation or appreciation.

72-1-30E. PUBLIC SERVICE AWARDS

Engraved certificates may be awarded by the Coast Guard to private citizens, groups, or organizations which contribute significant assistance or support to Coast Guard functions, services, or operations for the purpose of (1) demonstrating the interest of Coast Guard management in improving efficiency and effectiveness, and (2) encouraging citizens and organizations in their efforts to assist in the accomplishments of Coast Guard missions. Eligibility, awards, and procedures are discussed in the Public Affairs Manual, CG-247.

PART 72-2--MARINE CASUALTY INVESTIGATIONS--ADMINISTRATIVE PROVISIONS

72-2-1. NOTIFICATION OF SIGNIFICANT MARINE CASUALTIES

72-2-1A. INITIAL NOTIFICATION

Immediately upon receipt of information concerning a significant marine casualty (see paragraph 72-1-25C(4) for definition), the cognizant OCMI shall inform Commandant (G-MMI-1) and the district commander by the most rapid means available (usually by telephone). Since the Headquarters Flag Plot duty office also serves as an operations center, the following notification procedures shall be followed:

(1) Place the call to the Flag Plot duty officer, Commandant (G-TFP), at (FTS) 8-426-1830 or (toll-free) 800-424-0201;

(2) Advise the duty officer that you are reporting a significant marine casualty;

(3) Request that the call be patched to Commandant (G-MMI-1).

Flag Plot duty officers can also patch calls to marine casualty personnel at home for reporting significant casualties during non-working hours. Notification may be based on reliable information and should not be delayed for any reports required by law or regulation. Essential information, including the names of the vessels involved, official numbers, nationality, the location, possible or probable loss of life or serious injuries, and the nature of the casualty should be clearly set forth. It is imperative that Commandant (G-MMI-1) be advised of the essential facts without delay, even though some information may be missing or may be of questionable accuracy. This initial notification should identify the type of investigation to be conducted, and should be confirmed by message as soon as possible. See subpart 72-3-1 concerning the district commander's recommendations for the convening of a marine board, and plate 72-2-1A.1 for a sample notification checkoff list.

72-2-1B. PROMPT INTENSIVE INVESTIGATION

Investigation of a significant marine casualty shall commence immediately upon receipt of information concerning such an incident. The utilization of a sufficient number of investigators immediately after a marine casualty has been found to be an absolute necessity in swiftly gathering factual material. The importance of getting each witness's first story and reaction before the witnesses are dispersed or otherwise employed is obvious. In smaller offices this may require an all-hands evolution. Assistance should be requested from the district office or Headquarters, if necessary.

72-2-5. NOTIFICATION OF MAJOR MARINE AND PUBLIC/NON-PUBLIC VESSEL CASUALTIES

In addition to the significant marine casualties listed in section 72-1-25C(4), direct notification of Commandant (G-MMI-1) is required for major

marine casualties and public/non-public vessel casualties (see paragraphs 72-1-25C(1) and (2) for definitions). Commandant (G-MMI-1) will notify the National Transportation Safety Board (NTSB) of the occurrence of such casualties. (See section 72-2-55D for further discussion of the NTSB.)

72-2-10. INVESTIGATIVE REPORTS AND FORMS

All commercial vessel casualty investigations shall be reported to the Commandant either by a letter of transmittal, a narrative report, or a Marine Board of Investigation report, as applicable. Forms CG-2692 and CG924E, as required by 46 CFR 4.05-10, are used as enclosures to the investigative report (see part 72-5 of this manual). Form CG-3865 or the state accident report form shall be attached to the investigative report in those cases involving state-numbered commercial vessels and recreational vessels.

72-2-15. INTERFACE WITH BOATING SAFETY PROGRAM

In accordance with 46 CFR 4.01-3, dual reporting is not required. Therefore, if an accident involves a vessel which is subject to the reporting requirements of 33 CFR 173, Form CG-3865 (or a State boating accident report form, as appropriate) should be submitted. Vessels required to submit such a report, in accordance with 33 CFR 173.55, include:

- Vessels which are numbered and used for recreational purposes;
- Documented yachts;
- Commercial vessels which are numbered and uninspected;
- Commercial vessels which are documented and uninspected, and which are used for recreational purposes at the time of the accident.

If the vessel involved is required to have a valid Certificate of Inspection, the requirements of 46 CFR 4 apply instead, and the casualty shall be reported on Form CG-2692.

In summarizing the above, the investigating officer has to determine if (1) the vessel is numbered and uninspected or (2) the vessel is being used for recreational purposes and uninspected. If the vessel meets either of the above criteria, regardless of what the other conditions may be, the operator should submit Form CG-3865 or a State boating accident report form, as appropriate.

When the operator submits a State boating accident report form to the state, a copy will be forwarded to the district commander (b). If there is no State numbering system, the operator shall forward Form CG-3865 to the district commander (b), who shall forward a copy to Commandant (G-BLC). The district commander (b) shall also determine if the vessel involved in the casualty was being used in recreational or commercial service. If the vessel was being used in commercial service and the casualty meets the criteria of 46 CFR 4.05 or involves recreational death, the district commander (b) shall forward a copy of Form CG-3865 or the State boating accident report to the local OCMI for investigation. The OCMI shall conduct an investigation and shall have a letter of transmittal or narrative report completed in accordance with guidance in this chapter (or Chapter 75, as appropriate). The investigative report shall be submitted to Commandant (G-MMI-1) if a commercial case and to Commandant (G-BEL-2) if a recreational case.

72-2-15A. FORWARDING OF CASUALTY REPORTS INVOLVING BOTH RECREATIONAL AND COMMERCIAL VESSELS

All casualty investigation reports of recreational boats involved in commercial activity at the time of a casualty that meets the reporting criteria in 46 CFR 4, and accidents between commercial vessels and recreational boats shall be submitted to Commandant (G-MMI-1). A copy of the boating accident report shall be attached to the investigation report. An extra copy of the investigation report, with all enclosures and attachments, shall be included and marked for Commandant (G-BEL) (see subpart 72-6-15 of this manual for additional guidance concerning enclosures and attachments).

72-2-15B. CASUALTIES INVOLVING STATE-NUMBERED COMMERCIAL VESSELS

Boating accident reports of state-numbered commercial vessels which meet the reporting criteria of 46 CFR 4.05-1 shall be investigated and reported to Commandant (G-MMI-1) in accordance with the provisions of this chapter.

72-2-20. YEAR-END REPORTING OF PENDING CASUALTY INVESTIGATIONS

Annual casualty statistics prepared at Headquarters are based upon cases reported to the Coast Guard during the fiscal year, rather than on the date of occurrence. Therefore, by 10 October of each year, OCMI's shall forward (with a covering letter via the chain of command) to Commandant (G-MMI-1) copies of all marine casualty and personal injury reports (Forms CG-2692 and CG-924E) that are pending at the end of the fiscal year, regardless of the status of the investigations. Forms which are incomplete or in error must be completed and corrected by the investigating officer. When the forms have not been received, he must complete and submit them based on the best information available. All injury or casualty reports shall be listed in one covering letter and shall show approximate or probable cause, based upon the best information obtained to the date of forwarding. In addition, the estimated submission date for the final report for each case shall be shown.

In order to avoid errors in the annual statistics report, an effort shall be made to insure that all cases listed on the year-end report are, in fact, reportable casualties or accidents. If the investigating officer subsequently determines that a casualty which has been listed on a year-end report is, in fact, not reportable or is a boating accident, Commandant (G-MMI-1) shall be notified when (1) the case is administratively closed locally, or (2) the case has been submitted to Commandant (G-BEL) as a boating accident investigation report.

In the event that there are no casualty or accident cases pending at the end of the fiscal year, a letter report to Commandant (G-MMI-1) shall be forwarded by 10 October to so advise. It is also imperative that all investigation reports that have been forwarded by the OCMI prior to 30 September be cleared at the district level and forwarded to Headquarters by 10 October. If the reviewing authorities disagree with an investigation report and are contemplating returning it for revision, the forms shall nonetheless be forwarded to Headquarters by the reviewing authorities with a letter indicating the contemplated action. A marine board recorder shall also forward copies of applicable

Forms CG-2692 and CG-924E directly to Commandant (G-MMI-1) prior to 10 October. Investigative reports that have been returned for review by Commandant (G-MMI) prior to 1 October should not be included in the year-end report.

72-2-25. NOTIFICATION REQUIRED WHEN REPORT IS NOT COMPLETED WITHIN SIX MONTHS

Reports of casualty investigations should be completed and submitted to Commandant (G-MMI-1) no later than six months after the date of the casualty. Timely submission of these reports will provide for improved administrative control and prompt correction of hazardous conditions. If this submission date cannot be met, a letter is required from the OCMI or the chairman of the marine board to Commandant (G-MMI-1), stating the causes for the delay and the estimated date of completion. If the report cannot be completed by the stated date, a follow-up letter to Commandant (G-MMI-1) is required.

72-2-30. REPORT OF ACCIDENTS INVOLVING AIDS TO NAVIGATION

Whenever a vessel collides with an aid-to-navigation that is under the jurisdiction of the Coast Guard, or is connected with any such collision, the incident must be reported to the nearest OCMI. If it is a reportable marine casualty as defined in 46 CFR 4.05, the report shall be made on Form CG-2692. In all cases, the OCMI shall notify the proper aids-to-navigation personnel or group commands directly concerned with the facts and circumstances involved. A collision with an aid-to-navigation which damages or alters it is a violation of law, regardless of whether the act was willful or not. Investigative reports documenting such collisions with aids-to-navigation should contain a statement to this effect (see 33 U.S.C. 408). In such cases, further investigation should be initiated through either suspension and revocation proceedings or the civil and criminal penalty proceedings. The fact that such action has been initiated should be documented in the casualty report. If action has been initiated by another Coast Guard unit (e.g., district (oan))), this fact should likewise be noted in the report. Due to the "no-fault" nature of 33 U.S.C. 408, only those cases which contain evidence of negligence or misconduct should be pursued under 46 U.S.C. 239. The decision to pursue any sanction is left to the discretion of the district commander and should be handled on a case-by-case basis. The remuneration of damages is considered appropriate in most cases. In addition, 33 U.S.C. 411 is available for enforcement purposes if necessary.

72-2-35. REPORT OF HULL DAMAGE

72-2-35A. STRUCTURAL FAILURE

Reports of investigation of casualties involving structural damage should always contain a brief general description of such damage. When major structural damage has been sustained, especially in those cases involving larger vessels, photographs, diagrams and survey reports should be included or submitted separately as circumstances dictate. Instances of structural damage in the form of structure failure, such as that caused by heavy weather, improper distribution of the cargo load, corrosion or fatigue, may require reporting on Form CG-2752, Report of Structure Failure, Collision Damage or Fire Damage to Inspected Vessel, in accordance with instructions contained in subpart 30-5-35 of this manual. When Form CG-2752 is submitted, the investigative report should so indicate.

72-2-35B. COLLISION OR GROUNDING

When a casualty consists of a collision or grounding, a description should show the angle of impact, speed at the time of impact, and the depth of penetration. Also, in casualties due to collision, grounding, or other damage resulting in holing and flooding of compartments, where available and appropriate, the following information shall be made a part of the record:

(1) Draft leaving port, forward and aft;

(2) Draft at time of casualty, forward and aft (best estimate);

(3) Draft after casualty, forward and aft (if appropriate);

(4) General location of damage;

(5) Compartments affected;

(6) Number and size of openings;

(7) Extent of damage: longitudinal, inboard, and vertical (information should be in sufficient detail to fully define limits of damage); and

(8) Behavior of vessel: list, trim, did vessel sink/time to sink.

72-2-40. RECORDS OF INVESTIGATIONS NOT CLASSED AS MARINE CASUALTIES

Investigation reports pertaining to marine casualties or reports of casualty or accident should not be submitted unless they fall within the classifications stipulated in 46 CFR 4.05-1 or 33 CFR 173.55 (for instance, an intentional grounding not resulting in vessel damage need not be reported). Other less serious casualties may be investigated for local administrative or other purposes; however, this is left to the discretion of the OCMI and the district commander. These instructions do not modify the requirements of 46 CFR 4.05-20 (report of accident to aid to navigation), 46 CFR 5.01-30 (suspension and revocation proceedings), or of other law enforcement procedures.

72-2-45. FAILURE TO REPORT MARINE CASUALTIES

The failure of a master to report a marine casualty or accident as required by 46 CFR 4.05-1, 35.15-1, 78.07-1, 97.07-1, and 185.15-1 may be made the basis for preferring charges against his license. The regulation at 46 CFR 4.05-10 requires that such a report be made as soon as possible, and it is expected that the master will be reasonably prompt in complying. If the report is not filed in a timely manner, the OCMI should require a satisfactory explanation for the delay (33 U.S.C. 361 allows 5 days in which to submit a written report).

The master, owner, or agent of a vessel of the United States (including a barge in tow through the open sea) is additionally made responsible for reporting casualties by the provisions of 33 U.S.C. 361, 362, and 365. These statutes provide a penalty of $100 for failure to report. Action for the

assessment and collection of the penalty should be instituted unless justifiable reasons are shown for failure to make the necessary report. No penalty should be assessed against the master if suspension and revocation proceedings have been instituted or are contemplated for this offense. The term "vessel of the United States" as used in the statutes cited above means vessels registered, enrolled and licensed (20 net tons and over), or licensed (under 20 net tons but not under 5 net tons).

Since 33 U.S.C. 361 does not require the notice of deaths not resulting from a vessel casualty or accident, nor groundings of U.S. vessels where no damage is sustained, nor casualties to foreign flag vessels or undocumented/un-numbered vessels in U.S. waters, the Coast Guard has no statutory authority to penalize for failure to submit the appropriate forms in these cases. However, 46 U.S.C. 239 and 46 CFR 4 do authorize and direct the Coast Guard to investigate casualties occurring in U.S. waters and any grounding of a U.S. vessel. Therefore, if a person normally required to give notice of a casualty does not submit the appropriate form(s) in connection with the above casualties, the investigating officer shall complete the appropriate form(s) using information collected from witnesses and/or documentary evidence. The subpoena power provided in 46 U.S.C. 239(e) should be used, if necessary, to collect this information. 46 U.S.C. 239 does not provide investigative authority for cases involving non-accidental deaths (e.g., natural deaths, homicides, and suicides). The procedures set forth in subpart 72-5-50 of this manual shall be followed in such cases.

72-2-50. COORDINATION WITH OTHER COAST GUARD ACTIVITIES

Investigating officers, as well as other marine safety personnel, must establish liaison with other Coast Guard activities and commands. Arrangements should be made so that the appropriate Coast Guard command will be notified of damages to aids-to-navigation, marine casualties, assistance cases, serious motorboat accidents or violations, and other information discovered in carrying out marine safety functions. An investigating officer should not hesitate to avail himself of the services of the district legal officer, nor should he fail to consult with other officers for expert advice on technical matters. Through the chain of command, an investigating officer should avail himself of Coast Guard facilities whenever beneficial to casualty investigations. For example, Coast Guard stations frequently have land vehicles, convenient space for holding small investigations, and a wealth of local information.

72-2-55. COORDINATION BY INVESTIGATING OFFICERS WITH OTHER FEDERAL AGENCIES

72-2-55A. DEPARTMENT OF JUSTICE

72-2-55A(1). Whenever a marine board of investigation has been convened, the recorder of the board must notify the U.S. attorney's office for the district in which the board is being conducted. The attorney should be informed of the nature of the casualty and the time and place at which the marine board will be held. Notification should be given to this same office in all cases involving Government vessels or potential claims against the Government.

72-2-55A(2). Investigations containing evidence of criminal violation shall be referred to the cognizant U.S. attorney by the district commander. However, the Commandant's final action is necessary before formal referral by a district commander in cases involving:

(a) Marine boards;
(b) Deaths; or
(c) Violations punishable under port security regulations issued by the Commandant during war or national emergency (50 U.S.C. 191).

72-2-55A(3). When doubtful or unusual cases raise a question as to the propriety of local referral, the district commander may request a decision from Commandant (G-L) and hold the referral in abeyance until advice is received.

72-2-55A(4). In all cases where referral to the U.S. attorney is made by the district commander, a copy of the letter should be forwarded to Commandant (G-L).

72-2-55A(5). A U.S. attorney is not precluded from initiating action without a formal Coast Guard referral, and the principles of good liaison dictate that the U.S. attorney be advised at the earliest possible time of matters which may ultimately come under his cognizance. However, in those cases requiring the Commandant's final action, a formal referral will not be made until approved by the Commandant.

72-2-55B. DEPARTMENT OF DEFENSE AND OTHER DEPARTMENTS

The following casualty investigation procedures shall be used in cases involving a U.S. public vessel involved in a reportable marine casualty (46 CFR 4.05-1) with a merchant or pleasure vessel of the United States, or a foreign vessel operating upon the navigable waters of the United States:

72-2-55B(1). When vessels of the U.S. Navy (including Military Sealift Command vessels) are involved in such casualties, the Judge Advocate General (JAG) Officer of the naval district in which the investigation is held shall be advised. The participation and availability of witnesses shall be requested. If the request is denied, Commandant (G-MMI-1) shall be advised by telephone or message. The investigation shall then proceed without these witnesses and in accordance with the procedures set forth in this chapter.

72-2-55B(2). When vessels of the U.S. Army or other governmental department are involved in such casualties, the district engineer or other appropriate command shall be advised. The participation and availability of witnesses shall be requested. If the request is denied, Commandant (G-MMI-1) shall be advised by telephone or message. The investigation shall then proceed without these witnesses and in accordance with the procedures set forth in this chapter.

72-2-55B(3). As specified in 46 CFR 4.11-1, military personnel and civil service employees cannot be summoned to appear as witnesses in an investigation without the consent of the governmental agency concerned.

72-2:55B(4). Contract-operated USNS tank vessels are public vessels although they are inspected and certificated, and the seamen licensed and certificated, by the Coast Guard. Such vessels are exempted from all provisions of Title 46, U.S. Code; however, by agreement with Commander, Military Sealift Command, the Coast Guard will investigate all reported marine casualties (46 CFR 4.05-1) except where, in specific cases, MSC requests that there be no investigation.

Where a casualty investigation is to be conducted, MSC will assist the Coast Guard to the extent practicable in its investigation and in obtaining necessary witnesses. In those cases where MSC decides that a marine casualty should not be reported to the Coast Guard or, if reported, that it should not be investigated, a Coast Guard investigation will not be conducted. When requested not to investigate, the OCMI should advise Commandant (G-MMI-1) by message or other appropriate means. This agreement does not affect the Coast Guard's statutory obligation to investigate casualties when a contract-operated USNS tank vessel is involved in a casualty with another vessel over which the Coast Guard has jurisdiction.

72-2-55B(5). When a governmental agency declines to participate or make their witnesses available, the Coast Guard will conduct an investigation to fulfill its statutory responsibilities under 46 U.S.C. 239 to investigate marine casualties. However, in all such cases, the record should include only Forms CG-2692 or CG-924E and a letter of transmittal, or a narrative report where there has been loss of life. This does not preclude the investigating officer from interviewing personnel and examining records of the non-government vessel to obtain additional information and assistance in his investigation. Statements and copies of documents shall not be taken for inclusion in the record.

72-2-55B(6). The procedures concerning further investigation under suspension and revocation proceedings (46 CFR 5) are not affected and the investigating officer shall proceed in the usual manner, unless otherwise directed. Other procedures, such as those concerning reports of violations, are likewise not affected.

72-2-55C. DEPARTMENT OF LABOR

72-2-55C(1). Under the authority of the Longshoremen's and Harbor Worker's Compensations Act (33 U.S.C. 941), the Secretary of Labor conducts investigations of accidents and deaths involving employees covered by that act. This investigative authority will parallel, in many instances, that of the Coast Guard under 46 U.S.C. 239.

72-2-55C(2). To avoid duplication, the Labor Department has requested that their local offices be advised of all investigations of casualties involving longshoremen or ship repairmen. This request received favorable consideration because of the Commandant's policy to cooperate with all Federal agencies in promoting safety of life and property at sea. Hence, in all such casualty investigations, the appropriate local Labor Department office should be informed and an invitation extended to attend the investigation (but not as a party in interest). Such investigations will be conducted under the authority of R.S. 4450 and will be acted upon and concluded in accordance with current Coast Guard procedures.

72-2-55C(3). The Labor Department representative should be consulted concerning his particular interest in the casualty and opportunity should be afforded him to elicit facts or develop information necessary for his purposes. How-

ever, the conduct and scope of investigation should remain in the hands of the investigating officer, recorder, or chairman of a board, including the directing of questions through him.

72-2-55C(4). In a like manner, the Labor Department has agreed to inform the OCMI of any investigation conducted under the authority of 33 U.S.C. 941 which may be of interest to the Coast Guard. A Coast Guard representative may be designated to attend.

72-2-55C(5). Investigative records shall be made available to the local Labor Department office in accordance with the provisions of 49 CFR 7.

72-2-55D. NATIONAL TRANSPORTATION SAFETY BOARD (NTSB)

The NTSB is an independent Federal agency. Under the authority of the Independent Safety Board Act of 1974 (49 U.S.C. 1901 et seq), it may investigate, or cause to be investigated, major marine casualties as defined in 46 CFR 4.40-5(d) and casualties involving public and nonpublic vessels. Joint CG/NTSB regulations governing the conduct of investigations under this act are in 46 CFR 4.40 and 49 CFR 850. None of the Coast Guard's responsibility to investigate marine casualties is eliminated or diminished by this act. Notification requirements for major marine casualties are described in subpart 72-2-5. An NTSB member or representative designated by the NTSB may participate in every phase of an investigation, including an on-site investigation that is conducted under the provisions of 46 CFR 4.40-25. Consistent with the Coast Guard's responsibility to direct the course of the investigation, the member or representative of the NTSB may:

(1) Make recommendations about the scope of the investigation;
(2) Call and examine witnesses; and
(3) Submit or request additional evidence.

An independent investigation may be conducted by the NTSB, at its option, of any major marine casualty or any casualty involving public and non-public vessels under the NTSB's Rules of Practice for Surface Transportation Accident Hearings, contained in 49 CFR 845. Such independent investigations will avoid duplication as much as possible by the use of transcript and other evidentiary material received during Coast Guard investigations.

Investigative reports of major marine casualties and casualties involving public and nonpublic vessels shall include a recommendation that a copy of the complete record be forwarded to the NTSB. A copy of the report and all other evidentiary material shall be forwarded to Commandant (G-MMI-1) for this purpose.

The guidance in subpart 72-3-50 of this manual regarding the relationship with NTSB representatives shall be followed in investigations conducted in accordance with the joint regulations.

72-2-60. CASUALTIES INVOLVING FOREIGN VESSELS IN UNITED STATES WATERS

72-2-60A. JURISDICTION

An investigating officer has authority to investigate any casualty in navigable waters of the U.S. involving a vessel of foreign registry, and may employ as necessary the power of subpoena for purposes of the investigation (see 46 CFR 4.03-1(a)). There is no disciplinary jurisdiction under 46 U.S.C. 239 over the personnel of a ship of foreign registry, and the investigating officer has no authority to prefer charges against foreign personnel in such instances. He does, however, have the authority to cite them for the violation of the Inland Rules of the Road and other statutes regulating navigation. Where such violations appear, a report should be made immediately to the district commander, who will determine whether a penalty should be assessed. The report of violation is made on Form CG-2636.

72-2-60B. FOREIGN CONSULS

Whenever casualty investigation cases involve foreign flag vessels or foreign nationals, the nearest consular office of the nation concerned should be informed if practicable. Extending this courtesy not only improves relations with the nation involved but may prove helpful when uncommon languages or dialects are spoken.

72-2-60C. LACK OF COOPERATION FROM CREW MEMBERS OF FOREIGN VESSELS

In cases involving United States vessels in collision with foreign vessels, when the Coast Guard is unable to get statements of the witnesses from the foreign vessel by reason of their failure to cooperate in appearing to give testimony, the investigating officer shall immediately take steps to have such witnesses subpoenaed (see section 72-4-40C of this manual).

72-2-65. CASUALTIES IN FOREIGN WATERS BETWEEN UNITED STATES AND FOREIGN VESSELS

72-2-65A. INVESTIGATIONS

When a casualty occurs between a United States vessel and a foreign vessel on waters over which the United States has no jurisdiction, the Coast Guard conducts an investigation upon return of the American vessel. In these cases, the Commandant's determinations obviously are based only on the testimony and evidence given by the personnel of the U.S. vessel. Therefore, a statement to this effect should be included in the report.

72-2-65B. RECORDS

Generally, the record is considered incomplete until the witnesses from the foreign vessel have been heard or until a transcript of the foreign investigative record has been received and made a part of the Coast Guard record. However, the investigating officer shall make his findings of fact, conclusions, and recommendations based upon such evidence as he can obtain. He shall submit his report without waiting to obtain statements from foreign witnesses or a transcript of the foreign investigative record, unless it appears that such witnesses or transcript will be received or forthcoming within a reasonable time.

72-2-70. CASUALTIES IN INTERNATIONAL WATERS BETWEEN UNITED STATES VESSELS AND FOREIGN VESSELS

When a casualty occurs between a U.S. vessel and a foreign vessel in international waters, the investigating officer shall proceed in the same manner as described in subpart 72-2-65 if the foreign vessel puts in at a foreign port. If the foreign vessel comes into a United States port, the procedure contained in subpart 72-2-60 shall be followed. Although the power of subpoena extends to foreign crewmembers and vessel records in this latter case, it must be remembered that there is no authority for the Coast Guard to take action regarding the licenses and documents of foreign crewmembers, nor to take action regarding violation of navigation statutes.

72-2-75. CASUALTY INVESTIGATIONS INVOLVING A U.S. COAST GUARD VESSEL AND A COMMERCIAL VESSEL SUBJECT TO THE JURISDICTION OF THE U.S.

72-2-75A. INVESTIGATIONS

Reportable casualties (as determined by the criteria set forth in 46 CFR 4.05-1) involving a Coast Guard vessel shall be reported by the district commander to Commandant (G-MMI-1) by the most rapid means available. Except in the case of a casualty in which a marine board of investigation is recommended, the district commander in whose district the casualty occurs or in whose district the commercial vessel first arrives shall immediately convene an investigation under the provisions of 46 U.S.C. 239, 46 CFR 4, and the Coast Guard Supplement to the Manual for Courts-Martial, United States (see sections 72-4-25A and B of this manual). When the district commander determines that a casualty involves an unusual occurrence or substantial damage to the vessel, the investigation shall be conducted formally. Appropriate persons from each vessel shall be designated parties in interest pursuant to 46 CFR 4.03-10 and paragraph 0304 of the Supplement to the Manual for Courts-Martial. Consideration shall be given to the rank of parties in interest when appointing investigating officers under this subpart.

(Note: This section of the manual is intended to require a single investigation.)

72-2-75B. PROCEDURES FOR INVESTIGATING AND REPORTING

The procedures for investigating and reporting casualties described in section 72-2-75A shall be in accordance with parts 72-3, 72-4 and 72-5 of this manual. To fulfill the requirements of the Supplement to the Manual for Courts-Martial, the following additional instructions apply:

(1) A signed copy of the report marked "duplicate original" shall be submitted to Commandant (G-L).

(2) In every case of injury to Coast Guard personnel resulting in loss of time in excess of 24 hours, or where entitlement to disability benefits is likely to result, a misconduct/line of duty determination must be made in accordance with Chapter IV of the Supplement to the Manual for Courts-Martial.

(3) Whenever a member of the Coast Guard or any other person subject to the Uniform Code of Military Justice is suspected of wrongdoing, he shall, preliminary to questioning, be afforded the warning provided by Article 31, UCMJ and the military Miranda/Tempia warning (see subpart 70-4-45 of this manual). This warning shall be made separately, distinctly, and in addition to any statement of his rights which may be given pursuant to 46 CFR 4.07-35.

(4) If there is evidence of wrongdoing on the part of Coast Guard personnel subject to the UCMJ, appropriate conclusions shall be made setting forth the evidence. Such conclusions shall be in a form similar to that described in subpart 72-5-20 of this manual.

(5) In those cases where there is evidence of wrongdoing on the part of Coast Guard personnel and conclusions required in paragraph (4) above are made, the investigative report shall also contain a recommendation as follows: "It is recommended that further investigation under the Uniform Code of Military Justice be initiated in the case of (name of person) concerning his part in this casualty."

72-2-80. COAST GUARD PERSONNEL AS WITNESSES IN CIVIL LITIGATION

72-2-80A. REGULATIONS AND POLICY

The requirements in 49 CFR 9.9 and 33 CFR 1.20 should, in every case, be complied with before an investigating officer appears as a witness in private civil litigation as a representative of the Coast Guard. The appearance of investigating officers as witnesses, particularly when summoned from their duty stations, on behalf of private parties in civil litigation inevitably causes some disruption to the proper performance of their duties and may result in adverse effect to the public interest. This may, however, be outweighed in some instances when such appearance seems to be in the public interest. It is the Commandant's policy to permit the taking of an investigating officer's deposition at his duty station, providing a subpoena is issued and the deposition is limited exclusively to facts coming under the investigating officer's personal observation, while in the performance of his official duties. Under no circumstances will authority be granted for an investigating officer to give evidence as an "expert" witness in litigation involving private parties.

72-2-80B. RESPONDING TO SUBPOENA

72-2-80B(1). When subpoenas or requests for the appearance of Coast Guard personnel as witnesses are received, the OCMI should notify the district legal officer either by letter or message, depending on the time available. For members or employees serving at Coast Guard Headquarters, the Chief Counsel should be notified. To facilitate handling of the request, the district legal officer or the Chief Counsel should be apprised of the following:

(a) Name and present station (if known) of person whose appearance has been requested;

(b) Identification of the casualty case involved by name of vessel(s), date, and place of occurrence;

(c) Where and when the witness is to appear;

(d) Identity of litigant requesting the appearance of the Coast Guard employee, and his interest;

(e) Whether or not the OCMI perceives any objection to the appearance of the employee as a witness.

72-2-80B(2). Occasionally, the appearance of a Coast Guard employee as a witness may occur on such short notice as to preclude obtaining the district legal officer's approval in time. In such cases, the local U.S. attorney should be contacted immediately and his advice solicited. The district legal officer should then be advised as soon as possible.

72-2-80C. RESPONDING TO A SUBPOENA DUCES TECUM

When, by reason of a subpoena duces tecum, Coast Guard personnel go to court with original records, copies should be prepared in advance to substitute in the court record. Notwithstanding promises of clerks and attorneys, experience has shown that records may never be returned to the Coast Guard. When Coast Guard personnel and records are within the jurisdiction of a court, appearance in response to a subpoena is necessary (with records, if demanded) to avoid a contempt citation; however, this does not mean a citation is inevitable for action taken in court once an appearance has been made. The Commandant does not desire to have Coast Guard personnel cited for contempt, and if time has prevented the obtaining of permission from the district legal officer or Chief Counsel in accordance with 33 CFR 1.20, a prospective Coast Guard witness should advise the court that he has not been authorized to testify, because the attorney subpoenaing him has not followed the provisions in the Code of Federal Regulations to obtain permission from the district legal officer or Chief Counsel. If the court orders him to testify anyway and the prospective witness can see no reason why his testimony would be detrimental to the United States, he may testify as a fact witness, explaining the details later in writing to his commanding officer. If he does not think he should testify, he should obtain assistance from the local U.S. attorney acting as his counsel. If he merely appears as custodian of Coast Guard records and has no extra copies, he should explain to the court that he has not been authorized to release the "original" records, and while they may be examined and introduced in evidence, he must take them back with him; however, copies for the court record shall be prepared and speedily forwarded to the court.

PLATE 72-2-1A.1

SAMPLE NOTIFICATION CHECKOFF LIST FOR
SIGNFICANT, MAJOR MARINE, PUBLIC, AND NON-PUBLIC VESSEL CASUALTIES

DATE _____ TIME _____

REPORTING OFFICE _____ PERSON REPORTING _____

VESSEL DATA:

Name(s):
O.N.:
Nationality:
Gross Tonnage:
Length:
Year Built:
Home Port:
Owner/Agent: _____
_____
_____

DATE/TIME OF CASUALTY:

LOCATION:

LOSS OF LIFE/INJURIES:

APPROXIMATE DAMAGE:

POLLUTION OR POTENTIAL POLLUTION:

NATURE OF CASUALTY (CAUSES IF KNOWN):

ROUTINE _____ FORMAL _____ MARINE BOARD _____

PART 72-3--MARINE BOARDS OF INVESTIGATION

72-3-1. DESIGNATION OF MARINE BOARD OF INVESTIGATION

If, as a result of an investigation of any casualty, upon recommendation of a district commander, or upon receipt of information from any other source, it appears to the Commandant that a marine casualty or accident is of such magnitude or significance that further investigation thereof would tend to promote safety of life and property at sea and would be in the public interest, the Commandant will designate an appropriate marine board of investigation to conduct such investigation forthwith. Authority is found in 46 CFR 4.09-1.

72-3-5. MEMBERSHIP OF A MARINE BOARD

The board will usually be composed of three members designated by the Commandant. The senior member shall be chairman and the junior member the recorder. The Commandant may designate specialists or technical experts to assist the board. Designation of board members will be by message, and will be later confirmed by precept.

72-3-10. QUALIFICATIONS OF MARINE BOARD MEMBERS

Recommendations for marine board members should be based on the nature of the casualty to be investigated and the availability of qualified personnel. A senior officer of wide experience should be selected as chairman (district commander, chief of staff, or district (m) officer). Consideration should be given to assigning a middle member who has a broad marine safety background (traveling inspector, OCMI, or chief, inspection department). In many cases it is also important that the middle member have professional qualifications opposite those of the chairman (i.e., if the chairman's experience is primarily deck or hull, the middle member should have experience in marine engineering). The recorder should be qualified and designated as an investigator.

72-3-15. PRELIMINARY INVESTIGATION

When a significant marine casualty occurs within the jurisdiction of a particular OCMI, investigation by the unit shall commence immediately. The utilization of a sufficient number of investigators is absolutely necessary in swiftly gathering factual material. The importance of making contact with the witnesses before they disperse is obvious. Information obtained will also serve to determine the general areas in which witnesses will testify and the order of their appearance. In the case of survivors arriving as a group, it is sometimes best to serve subpoenas for appearance at the MSO/MIO or other suitable place for the preliminary interrogation. The preliminary investigation shall <u>not</u> cease when it appears that the casualty will become a "marine board case." When the Commandant has designated a marine board, and prior to the convening of the board, the recorder shall be provided with all available information on the casualty. The OCMI shall continue to provide investigatory assistance as necessary after the board has convened.

72-3-20. ARRANGEMENTS FOR THE MARINE BOARD

The recorder shall proceed without delay to the site where the board is to convene and shall represent the board in arranging for the following:

(A) A suitable place to conduct the board proceedings. This could be a courtroom, large conference room, etc., with a space nearby for witnesses awaiting call. In large rooms, a public address system should be used so that all participants can easily hear. An easel is useful for display of sketches that are being developed, pictures, charts, etc. Name-place cards are useful for the identification of board members. The national ensign and the Coast Guard ensign shall be provided (refer to section 72-4-25D for other equipment, depending on the nature of the case). There should be a separate room where the board can meet out of session. A telephone should also be available;

(B) Commercial court reporting services. The hiring of commercial reporting services by the district commander will be authorized by specific instructions in the Commandant's convening order. Stenotype recording is the preferred method. Tape recording with multiple microphones has proven extremely unreliable, and a closed microphone court reporting system is distracting to the witness. The number of copies of the transcript required will vary according to the nature of the case (see section 72-3-70C). The minimum requirement is one copy for each board member, the Commandant, and the NTSB. Parties in interest and other persons may make their own arrangements with the court reporter for copies of the record;

(C) Reproduction facilities;

(D) Interpreter services, if required;

(E) A press release indicating the times which the chairman has designated for the board to convene.

72-3-25. RESPONSIBILITIES OF THE RECORDER

The recorder is responsible for the following:

(A) Custody of:

- Several current copies of appropriate charts;
- Most recent inspection records;
- Plans of vessel(s);
- Record of previous casualties, possibly related;
- Message traffic on casualty;
- Copies of statements of persons interviewed;
- List of physical evidence;
- List of witnesses and status (will they be leaving the area and therefore need to be called early or have depositions taken?);
- Course recorder tapes, automatic bell recorder record, charts, bell books, logs, and other vessel records; these shall be taken into custody if still aboard the vessel;

- Photos of casualty; detailed photographs of significant areas which can assist witnesses in testifying;
- Photos of vital controls; e.g., telegraph (bridge and engineroom), rudder angle indicator, position of rudder, phone selector settings in key areas, etc.;

(B) Keeping track of recovery of victims (their identification, where and when located, and by whom). Elements/materials which could help identify victims should be called to the attention of the coroner or local authorities;

(C) Notifying the U.S. attorney's office for the district in which the investigation is to be conducted, to advise the attorney of the nature of the casualty and the time and place at which the investigation will be held. Notification should be given to the same office in all cases involving Government vessels or potential claims against the Government (investigations where other agencies have a particular interest in the case are discussed in subpart 72-2-55);

(D) Advising parties in interest of their designation;

(E) Advising parties in interest and others who will testify as to what documents (logbooks, etc.) they should bring with them;

(F) Preparing information for the chairman's opening statement;

(G) Supervising arrangement of tables and seating; arranging for a pitcher of drinking water for witnesses;

(H) Arranging for a person to serve as orderly to handle the call and return of witnesses, run errands, etc;

(I) Calling Commandant (G-MMI-1) each day with a summary of what has occurred before the board. The summary is for transmission to the Commandant, and should merely outline the important points of the testimony without evaluation or comment. If the time zone difference permits, the call should be made about 0800, Washington, D.C. time so that the information can be presented to the Commandant at his morning briefing;

(J) If it appears that substantial additional expenses may be incurred, the chairman must be immediately advised. After due consideration by the board, Commandant (G-MMI-1) should be fully apprised.

72-3-30. SPECIAL CONSIDERATIONS

72-3-30A. VISITING THE SCENE OF THE CASUALTY

Prior to convening the board, every effort should be made by the board members to visit the scene of the accident. Much time and testimony may be saved by determining details of construction, layout of the vessel, geography, etc. firsthand. Once the board convenes, visits to the scene are complicated by bringing parties in interest and handling requests from the press. Any visits

to the scene prior to convening should be announced on the record to avoid misunderstandings.

72-3-30B. CUSTODY OF PHYSICAL EVIDENCE

Custody of physical evidence by Coast Guard units is a very delicate matter. The need for a chain of custody, security, and authorization for release is stressed so that the Coast Guard is not criticized for permitting unauthorized access to the evidence. A record should be kept of all evidence, wreckage, or debris which is turned over to the Coast Guard, including date, time, location found, by whom found, and witnesses.

72-3-30C. SAMPLES OF PETROLEUM PRODUCTS

In a case involving petroleum products or hazardous materials, samples of the product should be obtained as soon as possible for laboratory analysis.

72-3-35. INFORMATION FURNISHED TO THE BOARD

Prior to the marine board's convening, the recorder shall be provided with all available information on the casualty as indicated below:

72-3-35A. LEGAL ASSISTANCE

The district commander shall furnish the necessary legal assistance to the board for use in the investigation and shall provide legal assistance as needed to Coast Guard witnesses. If the board intends to call Coast Guard personnel as witnesses, the chairman should obtain permission from the district commander.

72-3-35B. TECHNICAL ASSISTANCE

The district commander shall furnish the necessary technical assistance from district (mmt) personnel as available and when requested by the chairman. If necessary, additional assistance may be requested of Commandant (G-MMT).

72-3-35C. CLERICAL ASSISTANCE

The district commander shall furnish the necessary clerical personnel to the board for use in the investigation. The hiring of commercial court reporting services, when deemed appropriate and necessary by the district commander, will be authorized by the inclusion of the following paragraph in the Commandant's convening order:

"When deemed appropriate for the proper and orderly functioning of this board, the district commander is authorized to negotiate for commercial court reporting services pursuant to 10 U.S.C. 2304(a)(4). This authorization satisfies the requirements of USCG Procurement Regulations 11-3.204(b)(1) for Commandant (G-FCP) approval prior to negotiation of contracts for personal and professional services. If district funds are not available, comply with Manual of Budgetary Administration (CG-255), paragraph 6204."

72-3-35D. FINANCIAL ASSISTANCE

A marine board of investigation shall normally be funded by the district commander in whose district the chairman has designated the proceedings to take place; such funding should be accounted for from Operating Guide 30.00 funds. The chief of the district comptroller division, with coordination from the district chief of staff, administers these funds. When a requirement for additional funding for a marine board becomes necessary, the procedures in paragraph 6204 of the Manual for Budgetary Administration, CG-255, shall be complied with. These procedures include intra-allotment transfers (revising other operating guides and authorizing variance adjustments to OG 30.00) and advancing funds from future quarters.

When these procedures cannot meet monetary demands or when extraordinary expenses are incurred, such as extensive diving operations, extensive court reporting services, metallurgical reports, technical research, etc., the district commander should request additional funds from Commandant (G-CBU).

The district commander should keep accurate documentation of the expenses incurred during the course of a marine board of investigation, since justification of these expenses is necessary prior to reimbursement.

72-3-40. RELATIONS WITH NEWS MEDIA

72-3-40A. GENERAL

Often, there is considerable local or national interest in casualties being investigated by marine boards. Cooperation with and accommodation of news media interests are encouraged to the extent that they do not detract from the decorum of the proceedings or inhibit a witness's willingness to testify. Generally, the use of cameras or video equipment is not permitted while the board is in session, but may be permitted in the hearing room during recesses. The chairman should, within reason, cooperate in giving interviews so that media representatives may record the background and hearing room settings that they desire.

72-3-40B. CHAIRMAN TO SET GROUND RULES FOR NEWS MEDIA

Primary responsibility for determining rules governing news media coverage of marine boards lies with the chairman of the board. General guidelines for the conduct of media coverage of marine board proceedings are as follows:

- Reporters are entitled to attend open sessions of a board, as are members of the public;

- The use of recording devices may be permitted if such devices are not distracting to the proceedings. Use of any recording devices which, in the chairman's opinion, may be a distracting element or may otherwise impact adversely upon the proceedings should be prohibited;

- As a general guideline, Coast Guard marine boards shall observe the same decorum and protocol with regard to media coverage of proceedings as is observed in Federal district courts;

- A statement should be made concerning the ground rules for news media coverage as determined by the chairman of the marine board.

Questions concerning news media coverage of marine board proceedings should be directed to the district public affairs officer or Commandant (G-BPA) for determination and coordination with appropriate staff elements. All requests by news media representatives for statements and releases shall be referred to the chairman or the district public affairs officer.

72-3-45. PRELIMINARY MEETING

Prior to the formal opening of the board proceedings, the chairman and all board members should meet with all attorneys to discuss how the proceedings will be conducted. The chairman will announce the ground rules for the proceedings, which include but are not limited to the following:

- Smoking shall not be permitted while the board is in session, and the prohibition of smoking shall be stated at the opening of the proceedings;

- There shall be frequent rest breaks;

- If there is more than one counsel for a party in interest, one counsel shall act as spokesman and be identified as such;

- If duplicates of the exhibits are required by parties in interest, they shall be made and distributed during recess or when the board is not in session.

Any matters which may be contentious should be resolved at the preliminary meeting, so that the record is not cluttered with objections.

72-3-50. OPENING PROCEDURES

72-3-50A. INTRODUCTION

The chairman should open the proceedings by introducing himself, other members of the board, any Coast Guard legal or technical assistance representative(s), and the National Transportation Safety Board (NTSB) representative.

Since the NTSB is also required to determine the cause of a major marine casualty, there will invariably be an NTSB representative in attendance at marine board sessions. Consistent with the chairman's powers to direct the course and scope of the investigation, he shall accord the representative of the NTSB the opportunity to make recommendations about the scope of the investigation, call and examine witnesses, and submit or request additional evidence. In some cases, the NTSB representative may be a board member of the NTSB, appointed by the President, and shall be treated accordingly.

72-3-50B. OATHS TO MEMBERS OF THE BOARD

Oaths shall be administered as described in part 72-4 of this manual.

72-3-50C. OPENING STATEMENT BY THE CHAIRMAN

The following sample opening statement for a marine board is presented as a guide:

"Good morning, ladies and gentlemen. I am (rank/name) from (duty station). I have been directed to serve as chairman of this marine board of investigation, which has been convened by the Commandant of the Coast Guard, under the authority of 46 U.S.C. 239 and 46 CFR 4 to investigate the circumstances involving (statement of the casualty). The officer on my right is (rank/name) who is attached to (duty station). The officer on his right is (rank/name) who is attached to (duty/station), who is also serving as recorder.

(Rank/name), (rank/name), and I will make up the composition of this marine board of investigation. The board will submit its report of findings, conclusions, and recommendations to the Commandant of the Coast Guard.

(If the NTSB participates) Present at this investigation is (name/title), representing the National Transportation Safety Board. The NTSB is also charged with the responsibility for the determination of cause or probable cause of major marine casualties, under the provisions of section 304(a) (1)(E) of the Independent Safety Board Act of 1974. For this reason, the NTSB representative will participate fully in this investigation and may make recommendations about the scope of the investigation, may call and examine witnesses, and may submit or request additional evidence.

I would like to request the cooperation of all persons present to minimize any disruptive influence on the proceedings in general and on the witnesses in particular. Smoking will not be permitted. Photography, including television cameras, will be permitted only during this opening statement and during recess periods. Members of the press are, of course, welcome and an area has been set aside for their use during the proceedings. All cameras will be removed from the room following this statement. The news media may question witnesses concerning the testimony that they have given after they have been released by the chairman. It is requested that such interviews be conducted outside this room.

This investigation is intended to determine the cause of the casualty to the fullest extent possible and the responsibility therefor, subject to final review and approval by the Commandant of the Coast Guard, and to obtain information for the purpose of preventing or reducing the effects of similar casualties in the future. This investigation is also intended to determine if there is evidence that any incompetence, misconduct, unskillfullness, or willful violation of the law on the part of any licensed officer, pilot, seaman, employee, owner, or agent of such owner of any vessel involved, or any inspector, officer of the Coast Guard, or other officer or employee of the U.S., or any other person, caused or contributed to the cause of this casualty; or if

there is evidence that any act in violation of any of the provisions of Title 46, U.S. Code or the regulations issued thereunder was committed.

All parties in interest have a statutory right to be present, to be represented by counsel, to cross-examine, and to have witnesses called in their behalf. Witnesses who are not parties in interest may be assisted by counsel for the purpose of advising them concerning their rights; however, such counsels are not permitted to examine or cross-examine other witnesses or otherwise participate. All witnesses will be examined under oath. When testifying under oath, a witness is subject to the Federal laws under 18 U.S.C. 1001 for perjury or making false statements under oath. This board is also empowered to recognize any commendatory actions by persons involved, and to make appropriate recommendations in this regard.

The following individuals and firms have been designated as parties in interest: (state names).

Parties in interest are not necessarily suspected of wrongdoing. Rather, they are those persons who, under the existing evidence or because of their position, may have been responsible for or may have contributed to the casualty. A person is named a party in interest so that he may have an opportunity to protect himself if facts develop that are adverse in nature to him. Additional parties in interest may be named if, during the course of the investigation, such designation is indicated. The sources of information into which this board will inquire are varied. The investigative resources of the Coast Guard have made attempts to locate every available piece of information pertinent to the casualty. This board will hear all such evidence. Should any person have, or believe he has, information not yet adduced but which might be of direct significance, that person is urged to communicate such information to the recorder.

(If applicable.) At this time, I would like to ask that all stand for a moment of silence, in respect to those persons who have been lost as a result of this casualty. (All present stand.)

This concludes the opening statement. Thank you for your attention. I will give the representatives of the media an opportunity to ask me a few questions at this time. (Discussion with media.)

Following a ten-minute recess the recorder will call the first witness. This board is now recessed."

72-3-50D. APPEARANCES

Appearances of parties in interest and/or their counsel should be noted in the record.

72-3-55. CONDUCTING THE INVESTIGATION

When the recorder calls the first witness, all other witnesses (with the exception of parties in interest) should be excluded from the room. The recorder

will administer the oath to the witness as described in subpart 72-4-55 of this manual and proceed with identification and examination procedures as described in subpart 72-4-50. If the witness is asked to draw a sketch, it should be drawn off the record. This has been found beneficial because a witness, in making a sketch, will often mumble to himself or say aloud things which are out of context and which do not make any sense in the record. When the witness finishes the sketch, the chairman shall re-enter the record, ask him to explain what he has drawn, and have him sign and date the sketch. Testimony by "expert" witnesses should be avoided, if possible, as their testimony is usually lengthy and verbose. Such persons are also prone to be defensive about their reputation as "experts."

The procedures for using exhibits and documentary evidence are discussed in section 72-4-50G of this manual. In view of the Coast Guard's other mission responsibilities, the investigation should thoroughly cover, if applicable, the pollution and port safety aspects of the case and VTS, SAR, and A-to-N elements as well as the basic requirements of 46 U.S.C. 239 (R.S. 4450). Objections by attorneys may sometimes require deliberation by the board. When this occurs, the board shall go off the record.

If a witness is recalled, he should be informed: "You are cautioned that the oath (affirmation) you took previously is still binding."

72-3-60. INITIATION OF SUSPENSION AND REVOCATION PROCEEDINGS

If a marine board discovers probable basis for the initiation of suspension and revocation proceedings, the board is required to inform the district commander of such evidence. This may be done either during or immediately following the investigation and before the witnesses have dispersed. The district commander will refer the case to the appropriate OCMI for administrative processing.

If the conduct of the marine board would not be adversely affected, designation of the recorder as investigating officer for such suspension and revocation proceedings should be considered, if he is attached to the local investigation department, due to his familiarity with the case.

72-3-65. PREPARATION OF THE REPORT

The first draft of the report should be prepared as early as possible. It has been found quite helpful for the board members to meet after the close of the open sessions to discuss the case and express their thoughts concerning the casualty. There should be frank discussion and deliberation to arrive at a consensus, if possible. The items to be included in the findings should be discussed so that all phases are covered. However, redundant or extraneous facts should be eliminated as they tend to dilute the impact of the report.

Recommendations should be precise, meaningful, and capable of achievement. It should be kept in mind that each recommendation will be responded to by the Commandant.

After recessing, each member should read the testimony, study the exhibits, and advise the chairman if further investigation appears to be indicated.

After the first draft has been circulated, the members should review it and make note of any suggested changes. The board members should then meet, discuss changes, and work up the final report. The nature of the case may be such that the report will require several drafts and more than one reviewing meeting.

The final report shall be prepared in accordance with part 72-5 of this manual.

(Note: special attention shall be given to the requirements for conclusions and recommendations of marine boards, as discussed in subparts 72-5-20 and 72-5-25).

72-3-70. THE INVESTIGATION RECORD

72-3-70A. RECORD OF PROCEEDINGS

The marine board's record of proceedings is submitted directly to the Commandant in accordance with 46 CFR 4.09-20 and includes:

- The precept and modification thereto;
- Complete transcript of testimony and statements;
- Exhibits;
- The narrative report, signed by all members of the board;
- Findings of fact, conclusions and recommendations signed by all members of the board; and
- Pertinent non-evidentiary materials, and the entire administrative letter file.

72-3-70B. FORM OF THE RECORD

The form of the record is described in Chapter 70 of this volume.

72-3-70C. NUMBER OF COPIES

(1) In all cases, the original and three (3) copies of the narrative report, and the original and one (1) copy of the record are required by the Commandant. The Commandant will forward the copy of the record to the NTSB.

(2) In cases which involve Coast Guard units or other public vessels, when it appears obvious that there will be claims for or against the United States and that litigation will probably result, an additional copy of the record should be forwarded to Commandant (G-MMI-1).

(3) In all cases in which evidence of criminal liability has been uncovered, a duplicate original of the complete record will be transmitted to the district commander for referral to the U.S. attorney. The Commandant's final action is necessary before formal referral by the district commander. (The "complete

record" means the narrative report plus all other evidentiary materials, testimony, statements, exhibits, convening order, Form CG-2692, and other materials forming a substantive part of the proceedings.)

(4) Parties in interest will not be furnished a free copy of the transcript (see 33 CFR 1.25-30).

72-3-75. DAILY STATUS REPORTS

The chairman of a marine board should appoint the recorder or some other person available to the board to prepare a daily summary of each day in session. The summary should be a journalistic report which summarizes the important testimony without evaluation or comment. It should be clearly phrased in the language of an objective reporter and recount no more than: "Master X said that he was on the right side of the channel"; "The coroner said that Pilot Y's blood alcohol level was 0.10%"; "The chairman denied a request by Attorney Z that his client be named a party in interest", etc. Minute details of testimony are not desired. It may also be desirable to include an advance list of the next witnesses to testify.

The daily status report shall be submitted by message or telephone directly to Commandant (G-MMI-1), or by telephone to Commandant (G-OFP) with a request that the report be taped and forwarded to Commandant (G-MMI-1). If the report is being relayed over telephone, care should be taken to spell out the names of witnesses, vessels, and any unusual terminology.

PART 72-4 -- MARINE CASUALTY INVESTIGATIONS -- PROCEDURES

72-4-1. REGULATIONS

The regulations contained in 46 CFR 4 apply to the investigation of all reportable marine casualties and reportable boating accidents. Cases involving acts of misconduct, negligence, or incompetence by licensed or certificated personnel not incident to a reportable marine casualty or boating accident are investigated under the provisions of 46 CFR 5.

72-4-5. TYPES OF INVESTIGATIONS

72-4-5A. FORMAL INVESTIGATIONS

Formal investigations are the type of inquiry in which all parties in interest are accorded the opportunity to be present and exercise their rights. Ordinarily, the participation of parties in interest will enhance the search for a proximate cause not readily ascertainable due to complexity or conflict of relevant facts. All testimony is taken under oath and the proceedings are recorded verbatim. Some elements of the formal investigation are discussed in subparts 72-4-50 and 72-4-55.

72-4-5B. ROUTINE INVESTIGATIONS

Routine investigations are conducted with varying degrees of procedural formality. Witnesses are often contacted separately. Facts may be elicited by correspondence, telephone or personal interviews, signed or unsigned statements, interrogatories which may or may not be taken under oath, or other means. Care should be exercised not to infer confidentiality of information between the witness and the investigating officer. Routine investigations shall be conducted in a thorough fashion to insure that completed reports are well-documented, with sufficient evidentiary material to support the investigating officer's conclusions. When possible, the proximate cause should be supported by corroborative evidence.

72-4-10. DEGREE OF INVESTIGATION TO BE CONDUCTED

72-4-10A. MARINE BOARD OF INVESTIGATION

The decision to convene a marine board should be influenced primarily by what is hoped to be learned from the casualty. Even though there might be loss of life and/or considerable property damage, a casualty that indicates its own cause or circumstances, obviously uncomplicated, does not by itself justify a marine board. On the other hand, if the information to be derived is of potentially considerable magnitude or significance, or is in a problem area or an area of technical importance, a marine board is essential to insure that every aspect of the case is inquired into. Additionally, a casualty may occur which probably could be investigated satisfactorily by one experienced officer, but due to public interest the formalities of a marine board are desirable. All marine boards shall be conducted formally, following the provisions of part 72-3 of this manual.

72-4-10B. ONE-MAN INVESTIGATION

In cases that do not require marine boards, the degree of formality can vary from the formal one-man investigation which follows board procedures to a review of the notice of casualty. Generally, the best method of eliciting facts will be indicated by the circumstances. The only time a witness's statement need be reduced to writing and sworn to is when it may be required at a later time to prove what was said. However, the investigating officer's notes shall be filed with the OCMI. If for any reason a case is considered serious enough to warrant taking testimony under oath and making a verbatim record, a formal investigation is indicated. It must be borne in mind that a witness can insist upon legal representation before giving testimony, but this does not require the investigating officer to place the man under oath or to make a record of the testimony.

72-4-15. PROMPT REPORTING

In order to be effective, investigations should be conducted as soon after the casualty as possible. The same is true for the submission of the investigative reports. However, complete and thorough investigations are desired, and the submission of the report may be delayed in order to obtain all essential information. As a general rule, every effort should be made to complete investigations and submit reports within six months of the casualty (see subpart 72-5-55).

72-4-20. INVESTIGATING OFFICERS

72-4-20A. FORMAL, ONE-MAN INVESTIGATIONS

In many cases, the circumstances surrounding a casualty do not justify the appointment of a marine board; however, a formal investigation following marine board procedures is indicated. Under such conditions and at the discretion of the district commander, a qualified investigating officer may be directed to conduct the investigation.

72-4-20B. ASSIGNMENT OF INVESTIGATING OFFICERS

Casualty investigations often involve the professional reputations (hence, the livelihood) of merchant marine officers and seamen. Therefore, discretion should be used in assigning investigating officers of appropriate rank and qualifications to conduct formal investigations. (It follows that investigating officers should possess a thorough knowledge of marine safety statutes and regulations, and an intimate acquaintance with merchant vessel operation and construction).

72-4-25. PREPARATION FOR A FORMAL INVESTIGATION

(See subparts 72-3-40 and 72-3-45 for guidance concerning news media relations and preliminary meetings.)

72-4-25A. PUBLIC SESSIONS

All marine casualty investigations, whether conducted by a marine board or an investigating officer, are open to the public except when classified material or material affecting national security is being considered. Anyone may attend and take notes, including attorneys and members of the press.

72-4-25B. CHOICE OF HEARING ROOM

Ordinarily, a room in the office of the OCMI will be available for a formal investigation. The room should be so arranged and situated that the proceedings can be conducted with a minimum of confusion or interruption. It should be large enough to comfortably accommodate all who are required or desire to be present, including the press. Frequently, a major casualty will arouse great public interest; if the number of participants and spectators is large enough, a larger room should be obtained.

72-4-25C. ARRANGEMENT OF HEARING ROOM

All persons participating in the examination of witnesses, including parties in interest, should be seated at tables with sufficient space for writing and reference materials. It has been found desirable to provide individual tables for each party in interest and his counsel. The reporter should be placed so that he may easily hear and record verbatim testimony (the individual reporter may be the best judge of this location). A place shall be provided at the head table for the NTSB representative at all marine boards and major casualty investigations, when the NTSB chooses to have a representative present. The witness may be located in one of the positions shown in plate 72-4-25C.1. It is desirable to have the recorder stand and face the witness on direct examination (the information and room arrangement on the plate are suggested; they have been found by experience to be effective. The final decision as to the arrangement of the room will depend upon the size and configuration of the space available).

72-4-25D. PUBLICATIONS AND INVESTIGATIVE MATERIAL

Prior to opening the proceedings, the investigating officer or recorder should assure himself that the following items are available, according to the nature of the case:

- Latest edition of the applicable Rules of the Road;
- Latest edition of the largest appropriate scale chart and others as necessary;
- Tide and current tables;
- Coast Pilot;
- Dividers, parallel rules, reading glass, etc.;
- Sufficient paper and pencils;
- Ship outline models;
- Sufficient exhibit pads/plain white sheets of paper stapled together with carbon paper interleaved) to be used for sketches or drawings;
- Light Lists;
- Such documentary or real evidence as indicated in 46 CFR 4.05-15.

72-4-30. VISITING LOCATION OF CASUALTY

At times, it may be necessary to visit the location of the casualty or other places to view the damage. When this occurs, all parties in interest and counsel should be advised of the time and place of the visit.

72-4-35. INTERVIEWING WITNESSES

72-4-35A. OBTAINING FACTS

To a great extent, the facts obtained in an investigation are elicited from the testimony of witnesses; hence, the completeness of the proceedings frequently hinges on an investigating officer's ability to interview effectively. One witness may remember details and be able to enlarge on them so that his testimony is extensive and illuminating; another may have to be closely questioned to derive useful information. When reluctant, uncooperative, or hostile witnesses are encountered, the procedure described in subpart 72-4-45 regarding unjustifiably recalcitrant witnesses may be followed.

72-4-35B. PRELIMINARY INTERVIEW

Witnesses are usually interviewed before the formal investigation to determine the general area of knowledge in which they will testify and to determine the order of their appearance. Such preliminary interview should be kept to a minimum. At this point, consideration should be given to scheduling the appearance of witnesses in groups or in an orderly sequence. It is preferable to schedule the most important witnesses first, especially if there is a probability of their becoming parties in interest. In such cases, the availability of counsel should be considered.

72-4-40. THE SUBPOENA

72-4-40A. SERVING THE SUBPOENA

72-4-40A(1). Whenever an investigating officer suspects or has reason to believe that a witness will not appear at the stated time and place of the investigation, a subpoena (Form CG-2639B) should be typed or made out in ink and served upon the witness. This form should be prepared in duplicate; the original for service and the duplicate copy showing the following on the bottom:

(a) Date and place of service, and signature (if witness will sign); or

(b) The fact that the original was delivered by registered mail, with return receipt signed by addressee only, etc.

If the subpoena is not served, a written statement shall include any information reported by the post office for nondelivery or a statement setting forth the reasons for failure to serve the subpoena.

72-4-40A(2). An individual being served a subpoena should be asked to sign the acceptance of service on the duplicate copy and indicate the date and place of receipt. If the witness refuses to sign for receipt of the subpoena, a notation to that effect should be made by the serving officer.

72-4-40A(3). Personal special service is generally best; where circumstances make service by other means desirable, consideration should be given to registered mail with a return receipt, signed by addressee only, requested.

72-4-40A(4). The receipted duplicate copy of the subpoena or the registered mail receipt can be used in evidence if the witness fails to appear as required.

72-4-40A(5). Service of the subpoena may be limited to within 100 miles of the investigation site, or to within jurisdiction of the local Federal district court. Consideration of these factors may be necessary for judicial enforcement.

72-4-40A(6). In those cases where subpoenas are mailed or where the person's financial position makes him reluctant to appear, the witness should be advised of witness fees and travel allowances as provided in 46 CFR 4.11. Government transportation requests may be issued if a witness is unable to furnish funds for transportation charges. The recorder or investigating officer should endorse the back of the original subpoena to show the time and place that the witness's services terminated, in order to substantiate payment of witness fees and reimbursement for travel. The witness should complete Form SF-1157 so that the recorder or investigating officer may process it for reimbursement.

72-4-40B. SUBPOENA OF EVIDENCE

The Coast Guard (through a marine board or investigating officer) is empowered by 46 U.S.C. 239(e) to require production of books, papers, documents, and any other evidence. When such evidence is desired, a subpoena duces tecum should be served upon the custodian. The material should be described in suffucient detail to enable the witness to identify it readily (see section 72-1-25J of this manual).

72-4-40C. FOREIGN WITNESSES

The subpoena power extends to foreign nationals within U.S. jurisdiction. However, foreign witnesses occasionally refuse to appear or testify before a marine board or investigating officer, believing that they are not answerable. In such instances, the board or the investigating officer should present all the facts, including copies of the subpoena(s), to the U.S. attorney. A request should be made that the person show cause before a U.S district court judge why he should not appear before the investigative body or, in failing or refusing to do so, be held in contempt of court (see Law Bulletin No. 230, part C, paragraph 4, of May 1955).

72-4-45. REFUSAL TO TESTIFY

Occasionally, a licensed or documented person refuses to answer the questions of a marine board or investigating officer on the grounds that his answers would tend to incriminate him. Unless it reasonably appears that his answers would tend to expose the witness to criminal liability, as distinguished from remedial action to suspend or revoke his license or document, the witness must answer questions. If it appears to the chairman of the marine board or the investigating officer that a witness is unjustifiably recalcitrant in refusing to answer questions, judicial enforcement of the subpoena through a show-cause order may be sought, or the case may be referred to the U.S. Attorney General as provided in 46 CFR 4.23-1 (see Law Bulletin No. 283, Oct. 1959). Refusal of the witness to answer, on the grounds that his answer might tend to incriminate him, suggests the possibility of evidence of criminal liability which, if found, would require submission of evidence and findings to the local U.S. attorney in compliance with 46 U.S.C. 239(h) (see section 72-2-50A).

72-4-50. CONDUCTING A FORMAL INVESTIGATION

72-4-50A. OPENING STATEMENT

72-4-50A(1). It is important that the opening statement required by 46 CFR 4.07-7 be delivered by the chairman or investigating officer in the presence of all persons concerned with the investigation (parties in interest, witnesses, counsel, etc.). This statement should be complete so that all persons concerned will be fully apprised of the nature and purpose of the proceedings, the authority therefor, and the rights of all parties. When convenient, the opening statement may be delivered to all persons concerned at the same time; however, if this is not advantageous, every person called as a witness or designated as a party in interest should be given an appropriate statement upon appearance. All such statements, including the opening statement, should be included in the record. The following sample opening statement is suggested:

"This investigation is convened under the authority of 46 U.S.C. 239 (R.S. 4450, as amended) and the regulations thereunder, to investigate the (statement of casualty). This investigation is intended to determine the cause of the casualty to the extent possible and the responsibility therefor, and to obtain information for the purpose of preventing or reducing the effects of similar casualties in the future. This investigation is also intended to determine if there is evidence that any incompetence, misconduct, unskillfulness, or willful violation of the law on the part of any licensed officer, pilot, seaman, employee, owner, or agent of such owner of any vessel involved or any inspector, officer of the Coast Guard, or other officer or employee of the United States, or any other person caused or contributed to the cause of this casualty, or if there is evidence that any act in violation of any of the provisions of Title 46, U.S. Code or regulations issued thereunder was committed. All parties in interest have a statutory right to be present, to be represented by counsel, to cross-examine witnesses, and to have witnesses called in their own behalf. Witnesses who are not parties in interest may be assisted by counsel for the purpose of advising them concerning their rights; however, such counsel are not permitted to examine or cross-examine other witnesses or

otherwise participate. All witnesses will be examined under oath. When testifying under oath, a witness is subject to the Federal laws under 18 U.S.C. 1001 for perjury and making false statements under oath."

NOTE: The sample opening statement in section 72-3-50C, modified as necessary, may be used when NTSB participates or when circumstances warrant a more formal introduction.

72-4-50A(2). When the persons involved in the investigation and their counsel are not familiar with the proceedings, the chairman or investigating officer may read the appropriate sections of 46 CFR 4 and explain each section after it is read, instead of using a prepared statement. (This opening statement must be modified when an investigation is convened to investigate a case involving an offshore structure).

72-4-50A(3). After making the opening statement, any questions concerning the purpose of the investigation, the rights of parties, or powers of the investigating body should be permitted.

72-4-50B. APPEARANCES

When the opening statement and attendant questions are completed, appearances of parties in interest and/or their counsel should be noted in the record.

72-4-50C. GENERAL KNOWLEDGE OR RECORDER OR INVESTIGATING OFFICER PRIOR TO PROCEEDINGS

Before proceeding with the introduction of evidence, the recorder or investigating officer should have a clear grasp of the purpose and extent of the investigation. He should have a list of all witnesses, the interest with which they are connected, the name of all counsels with the interests they represent, and a prior arrangement for an orderly appearance of witnesses (through agreement with counsel or subpoena).

72-4-50D. ORDER OF CALLING WITNESSES

In nearly all cases, the information elicited in the preliminary stages of an investigation indicates the order in which witnesses will be called to testify. Usually, parties in interest are examined first, and when more than one interest is involved, as in collision cases, the board or investigating officer will decide on the order of testimony. It must always be borne in mind that the investigation is a duty of the Coast Guard, and not a forum in which criminal or civil liability will be determined. It is accepted procedure to call one or more principal witnesses from one side (such as a master or pilot), and corresponding witnesses from the other side, to establish both versions of the incident. Other witnesses, generally named by the principal witnesses or determined by the preliminary stages of the investigation, are then called in the order of importance.

72-4-50E. DIRECT EXAMINATION OF THE WITNESS

72-4-50E(1). The cooperation and memory of a witness can best be served by making him feel at ease. Often when questioning is prolonged or the witness is very nervous, recessing for a short period will achieve an easing of tension. The witness should be treated in a firm but courteous manner. He shall be required to stand while the oath or affirmation is administered; after that, he shall be offered a chair. All questions should be delivered in a firm, clear voice and an adequate answer insisted upon before proceeding to the next question. If a witness is named a party in interest, this fact should be stated in the record.

72-4-50E(2). When appropriate, the following information may be obtained at the start of questioning (in order to abridge proceedings, it is sometimes desirable to use leading questions in eliciting this type of testimony):

(a) Name and home address of the witness;

(b) Whether or not the witness, when designated a party in interest, desires counsel;

(c) Information from the witness's document or license should be read into the record by the recorder or investigating officer;

(d) The witness's age and experience. Information on his experience can be developed by determining how long he had been sailing prior to the casualty, what position he held at the time of the casualty, and how long he had been employed in that position on the vessel involved;

(e) Where the witness was and what he was doing at the time of the casualty;

(f) A statement, in his own words, of the circumstances which resulted in the casualty. The witness should not be interrupted during his story, but notes should be made on which to base specific questions after he completes his statement. Questions requiring the use of diagrams should not be overlooked, particularly in collision cases (see subpart 72-8-10 of this manual).

72-4-50F. CONCLUDING THE EXAMINATION

The direct examination is continued until the board or investigating officer is satisfied. Nothing should be assumed when questioning a witness. Assumptions can result in failure to obtain vital facts. After direct examination, counsel for the witness is then permitted to interview, followed by counsel for other parties in interest. Additional questions, if necessary, may then be raised by the board. It is always advisable, before concluding an interview, to inquire whether the witness has any information concerning the casualty not previously elicited.

72-4-50G. EXHIBITS AND EVIDENCE

72-4-50G(1). Exhibits may be entered into the record at any time. Documentary evidence should be captioned, signed by the identifying witness, and marked

for identification. In addition to being identified, documentary evidence produced in accordance with 46 CFR 4.05-15(a) or 4.09-5 should be reproduced or read into the record and then returned to the owner. For protection at a later date, the recorder or investigator should make notes (off the record) on when, where, and to whom evidentiary material is returned.

72-4-50G(2). Real evidence such as pieces of equipment, debris, life preservers, etc., may be received or exhibited in evidence if relevant to an issue in the investigation. Body wounds or scars are other types of real evidence that may be displayed. Real evidence should be clearly and accurately described in the testimony. Where possible, real evidence should be reduced to photographs, lab reports, etc., and the original piece of evidence returned to its owner. The resulting documents should then be marked as exhibits and made part of the record.

72-4-50G(3). In marine casualties, photographs of material conditions constitute an effective and valuable form of evidence, provided they are not susceptible to misinterpretation. Photographs should be identified as to what they portray, with the date, place, and the photographer's name. Good photographs are always in demand for technical studies and for reproduction in connection with safety articles in Coast Guard publications.

72-4-55. OATHS, AFFIRMATIONS, AND WARNINGS

72-4-55A. TO WITNESSES

72-4-55A(1). When the witness does not have religious objections, the following oath may be given by the board chairman or investigating officer:

"Do you solemnly swear that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth, so help you God?"

72-4-55A(2). If the witness objects to taking an oath on religious grounds, the following affirmation shall be used:

"A false statement given to an agency of the United States is punishable by fine and/or imprisonment under 18 U.S.C. 1001. Knowing this, do you solemnly affirm that the testimony you are about to give will be the truth, the whole truth, and nothing but the truth?"

72-4-55A(3). Prior to the testimony of a witness, when there is evidence available which leads the investigating officer to believe that the witness has committed a criminal offense, the following (Miranda) warning shall be given:

"You have the right to remain silent; any statement you make may be used against you; you have the right to stop testifying and then remain silent at any time; and you have the right to the presence of an attorney."

72-4-55A(4). In those cases where a witness is recalled, he should be informed:

"You are cautioned that the oath (affirmation) you took previously is still binding."

72-4-55B. TO BOARD MEMBERS AND RECORDER

72-4-55B(1). The members of the board should be sworn or affirmed by the recorder (the words "so help you God" are omitted when an affirmation is given):

"Do you, Captain A.B. and Commander C.D., swear (or affirm) that you will faithfully perform all the duties incumbent upon you as members of this marine board of investigation, and that you will examine and inquire into the matter now before you without partiality, so help you God?"

72-4-55B(2). After the board is sworn, the chairman will swear or affirm the recorder (the words "so help you God" are omitted when an affirmation is given):

"Do you, Lieutenant Commander E.F., swear (or affirm) that you will faithfully perform the duties as recorder and member of this board, so help you God?"

72-4-55D. TO INTERPRETER

Every interpreter, before entering upon his duties in an investigation, shall be sworn or affirmed. (The words "so help you God" are omitted when an affirmation is given):

"Do you, Mr. J.K., swear (or affirm) that you will faithfully perform the duties of interpreter in this investigation, so help you God?"

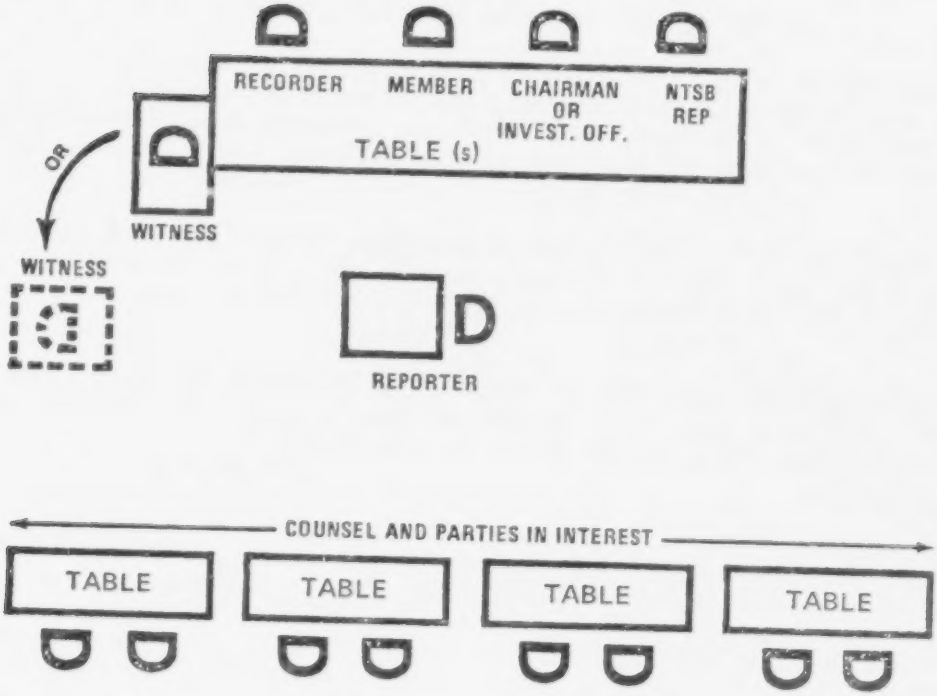
72-4-60. INITIATION OF SUSPENSION AND REVOCATION PROCEEDINGS

If action against licensed or certificated personnel has been or will be recommended, the fact should be noted in the report of investigation. However, the charges, specifications, and/or the report of the hearing shall <u>not</u> be included in the record.

72-4-65. TRANSMITTAL OF INVESTIGATING OFFICER'S RECORD

The investigating officer shall submit his record to the Commandant via the OCMI and district commander in accordance with 46 CFR 4.07-10. His record of casualty investigation may vary in content, depending on the amount of evidentiary material, etc. (see section 72-6-35C).

PLATE 72-4-25C.1



PART 72-5--COMMERCIAL VESSEL CASUALTY INVESTIGATIONS -- REPORTING PROCEDURES

72-5-1. ACCIDENT AND CASUALTY FORMS

72-5-1A. REPORT OF VESSEL CASUALTY OR ACCIDENT, FORM CG-2692

Form CG-2692 is used to report vessel casualties, whether or not accompanied by injuries to persons or loss of life, except for those casualties required to be reported on Form CG-3865, Boating Accident Report, or on a State boating accident report form. A separate form is required for each vessel involved in the casualty. For example:

- A tug is pushing a tow of nine barges. One of the lead barges collides with a lock guide wall. A Form CG-2692 is required for the barge which collides with the lock wall and for the tug which was responsible for the barge's navigation;

- Sixty barges are moored along the bank in the lower Mississippi River. A gale passes through the area and the barges break away from their moorings. Forms CG-2692 will be required only of those barges which cause or sustain a reportable vessel casualty;

- A large container ship, under the control of a docking pilot, is being assisted by three tugs while approaching a berth. Tug A is pushing on the port bow of the container ship with no lines attached. Tug B is secured to the port quarter of the container ship, and tug C is standing by to assist if needed. The container ship collides with the dock. Forms CG-2692 will be required from the container ship and tugs A and B.

(NOTE: When intentional grounding of barges waiting for tides or locks occurs and no damage results, Form CG-2692 is <u>not</u> required.)

72-5-1B. REPORT OF PERSONAL INJURY OR LOSS OF LIFE, FORM CG-924E

Accidents involving personal injury or death shall be reported on Form CG-924E when any person, on board any U.S. vessel, wherever located, loses his life or sustains an injury which incapacitates him for over 72 hours. Exceptions to this requirement are those accidents which must be reported through a State reporting system approved by the Coast Guard, or to the Coast Guard in accordance with 33 CFR 173. A separate Form CG-924E shall be submitted for each person killed or injured, whether or not a vessel casualty is involved. In case of a vessel casualty where injuries and/or deaths are involved, the owner, agent, master, or person in charge of the vessel must submit a Form CG-2692 for the vessel casualty and a separate Form CG-924E for each injury or death.

When loss of life or injury occurs on board a foreign vessel in waters under U.S. jurisdiction, the accident shall be reported on Form CG-924E in the same manner as for U.S. vessels. However, as a practical matter, injury reports

will not be required unless special circumstances make an investigation desirable. Special circumstances might involve accidents where valuable lessons in safety can be learned, such as a case where dangerous or hazardous gases are released under conditions not causing a casualty to the vessel but causing injury or death to a person or persons on board. Such special circumstances might also include personal accidents that for policy reasons the Coast Guard desires to investigate (e.g., diving fatalities or injuries occurring on vessels and/or facilities under Coast Guard jurisdiction).

72-5-1C. COMPLETION AND USE OF FORMS CG-2692 AND CG-924E

72-5-1C(1). Forms CG-2692 and CG-924E are used by vessel personnel to report casualties or accidents, by investigating officers to guide their initial course of investigation (and, in some instances, to permit closing the case after a review of the forms), and by the Commandant to supply statistical tabulations for studies of marine casualties. To be of value for such purposes, the investigating officer shall insure that each box contains the required information or the words "None," "Not Applicable," or "Unknown," as appropriate. When forms are received incomplete or in error, the data shall be inserted or corrected by the investigating officer. All additions or corrections made by the investigating officer shall be initialed. Box 28 of Form CG-2692 shall contain actual monetary damage or a reasonable estimate. This information shall be supplied by the submitter or the investigating officer. The estimate of damage should represent the actual damage in dollars directly attributable to the casualty. This figure should reflect the total cost of permanently eliminating the material effects of the casualty to the extent that the vessel is again fit for service (e.g., an estimate of grounding damage could include costs associated with salvage, drydocking, gas-freeing, cropping, fairing, fit-up, welding, testing, etc.). Estimates of damage should not include speculative costs (e.g., loss of earnings while vessel is out of service).

For the purposes of obtaining accurate statistical information, the investigating officer shall complete Form CG-2692 or CG-924E when all attempts to obtain one from vessel personnel have failed.

72-5-1C(2). When a report of casualty is received in a letter because the accident or casualty form was not available, the letter should contain the essential information normally listed on the appropriate form. The person submitting a letter report should be requested to execute the appropriate form(s). If the form(s) cannot be obtained or if their execution would cause embarrassment to the next of kin, the investigating officer shall complete the appropriate form(s) for submission to Headquarters. The letter, as well as the form(s), shall be made a part of the investigative record.

72-5-1D. FORM CG-2692 OR CG-924E USED AS A REPORT OF INVESTIGATION

In certain casualties or accidents, the cause will be self-evident from the information contained on the casualty or accident form or from other investigation. The facts developed may indicate a case of little significance to the Coast Guard and actions taken or recommended may be simply stated. In such cases, the submission of the completed form and transmittal letter may suffice

to close the case. No definite guides can be established to cover every case. The main consideration is the importance of the information developed.

72-5-5. LETTER OF TRANSMITTAL

Essentially, the purpose of the investigative report of a marine casualty is to provide detailed factual information upon which appropriate corrective measures may be based (see subpart 72-1-5 for additional guidance on the purpose of an investigation).

In those cases in which a narrative report of investigation is not submitted, the report shall be submitted in the form of a letter of transmittal with Form CG-2692 (and, if a reportable injury results, Form CG-924E) enclosed. This transmittal letter shall be from the investigating officer to Commandant (G-MMI-1) via the OCMI and the district commander (mvs).

72-5-5A. CONTENTS OF LETTER OF TRANSMITTAL

The investigating officer's letter of transmittal should be brief and contain:

(1) The date of transmittal; the file number; the standard heading; the vessel(s) involved; official number(s); nationality (if foreign); type of casualty; geographical area where casualty occurred; date of casualty; and extent of personal injuries.

(2) A statement concerning the proximate cause of the casualty, to the extent determinable and including sufficient information to determine how and why the casualty occurred. If the cause cannot be determined, a statement to this effect shall be made. This may be followed by the best deduction as to cause based upon information obtained. Statements such as "faulty navigation," "material failure," and "unseaworthy" are not sufficient. In order to properly classify the case, it must be determined wherein the navigation was faulty, why the material failed, or in what manner the vessel was unseaworthy. The investigating officer must be careful not to indicate a contributing cause as the proximate cause in his report. For example, the cause of a grounding casualty would be the operator's inability to judge the effects of a strong current, not simply strong current.

(3) A statement concerning contributing causes to the casualty. Some examples of contributing causes include, but are not limited to: adverse weather conditions, strong currents, noise, fatigue, intoxication, inadequate training or supervision, lack of experience, physical/psychological impairment, inadequate manning level, or improper design/maintenance of the vessel. If no contributing causes can be identified, the report shall state, "Insofar as can be determined, there were no contributing causes to this casualty."

(4) If the initial casualty causes a "chain of events" which are in themselves reportable casualties, the causes of these casualties should be stated. Some examples of this might include a fire resulting from a collision, personal injuries resulting from a grounding, fire resulting from a machinery failure, etc.

(5) Statement(s) concerning the action taken. This information should describe:

(a) The investigative status. This will normally be shown as "Investigation completed, a narrative report will not be submitted;"

(b) Action taken or recommended regarding the casualty;

(c) Comment on any corrective safety measures recommended by vessel personnel in box 34 of Form CG-2692 or box 29 of Form CG-924E. Such recommendations should be inquired into during the investigation in order that the Commandant may properly assess their value. Special attention should be given to section 72-5-25A, concerning the investigating officer's recommendations for corrective safety measures;

(d) When applicable to inspected vessels, a statement concerning permanent repairs should be included. Failure to mention the status of permanent repairs frequently requires additonal correspondence to ensure a proper follow-up of such matters;

(e) Referral to another department, office, or agency of any evidence of violation of laws or regulations that are not within the scope of marine safety;

(f) Referral to proper personnel in accordance with subpart 72-2-30 of this manual, of a casualty involving an aid to navigation;

(g) When a structural failure or equipment failure is involved, a statement should be made as to whether or not Form CG-2752 or CG-2752A, as appropriate, has been submitted (see subparts 72-2-35a and 30-5-35 of this manual);

(h) When any uncharted or incorrectly charted objects are involved, or when a grounding takes place that indicates an incorrect charted depth, a statement should be made concerning notification of the Army Corps of Engineers, National Oceanic and Atmospheric Administration, or U.S. Naval Oceanographic Office, as appropriate;

(i) When buoys or other aids to navigation are found to be off-station, a statement should be made concerning notification of the proper aids to navigation personnel;

(j) Other pertinent information.

(6) In each case involving a steering casualty, a detailed investigation shall be conducted and the following information shall be included in the investigation report:

(a) Name plate data (e.g., manufacturer(s) of system components);

(b) Type of steering gear (e.g., electric, hydraulic, steam, manual, etc);

(c) Major component involved in failure (e.g., rams, power unit, control equipment, etc);

(d) Specific component which failed (e.g., motor, pump, rotary hydraulic power unit, etc);

(e) Sub-component (e.g., relay, electrical windings, pistons, packing, keys, bolts, etc);

(f) Description of failure (narrative);

(g) Description of damage resulting from failure (narrative);

(h) Proximate cause of failure (how and why)*;

(i) Description of repairs effected;

(j) History of similar failures.

(*NOTE: If system failure appears to be the result of a design or manufacturing defect and therefore an equipment class failure, the incident should be reported to Commandant (G-MMI-1) by the most rapid means.)

(7) When there is evidence of violation of law or regulation, the specific statute or regulation should be enumerated.

(8) A statement closing the casualty aspect of the case. This statement should include information required by section 72-5-20E.

72-5-5B. SAMPLE CASUALTY AND RELATED INJURY REPORTS

72-5-5B(1). The sample report (with letter of transmittal) in plate 72-5-5B(1).1 describes a simple grounding case with no further action required. Sample endorsements for such a report are shown in plate 72-5-5B(3).2.

72-5-5B(2). The sample report in plate 72-5-5B(2).1 describes a simple navigation case resulting in suspension and revocation proceedings. Sample endorsements for such a report are shown on plate 72-5-5B(2).2.

72-5-5B(3). The sample report in plate 72-5-5B(3).1 describes a navigation case resulting in civil and criminal penalty proceedings and personal injury. Sample endorsements for such a report are shown on plate 72-5-5B(3).2.

72-5-10. FORM CG-4626, LETTER OF TRANSMITTAL FOR FORM CG-924E

Form CG-4626 is intended to be used for personal injury cases <u>not</u> resulting from a vessel casualty. The form is printed on self-copying paper, and may be completed by typewriter or by hand (in ink). As many copies as desired may be obtained by tearing off the desired number from the pad. This form provides the investigating officer with a checklist of causes to be properly marked, indicating the primary cause and any contributing cause(s) of the casualty.

With this format, the investigator should indicate all the pertinent factors involved in the casualty. The form should not restrict the investigating officer from communicating what was previously expressed in a handwritten letter of transmittal. Personal injury records for a five-year period have indicated that almost all cases can be classified within one of the form's given categories of cause. Cases with peculiar circumstances that would force a misapplication of a particular cause can be described by using the "Other" category and specifically setting out the cause in the space provided (see plates 72-5-10.1 and .2).

In any case there can be only one primary cause, but up to two contributing causes may be indicated. Experience has shown that most situations involve a chain of events set into motion by one cause, but continued or influenced by several other causes until the casualty has run its course. Thus, the investigating officer should not confine himself to merely identifying the one cause without which the accident would not have occurred. To communicate only one cause frequently fails to satisfy the requirement that the cause of the accident shall be determined. Further, there are causes which, though not directly bringing about the casualty, either aggravated the consequences or failed to minimize harm.

(A) The form shall be completed in accordance with the samples. The primary cause shall be marked by "X." Two contributing causes may be indicated by "O."

(B) In order to achieve uniformity of understanding in the meaning of certain causes, the following definitions are provided as a guide:

- Intoxication. Any impairment of physical or mental faculties brought about by alcohol or drugs;

- Physical Factors. Any physical deficiency, impairment, susceptibility, or tendency which caused or contributed to the casualty (examples: poor eyesight or hearing; heart disease; diabetes; previous injury; weakened or deficient capability);

- Unsafe Movement. Any stance, position, or movement which constitutes a disregard of safety or error in judgment, such as running, jumping, backing, awkward lifting, or overexertion;

- Psychological Factors. Any state of mind or psychological condition which caused or contributed to the casualty, such as immaturity, insanity, or excessive personality characteristic (this category includes fights);

- Unsafe Practice. Any act or application of a method which tends to create a hazard or a risk, such as the failure to provide a safety belt;

- Human Error, Carelessness. Any disregard of safe practice, whether intentional or unintentional, which does not otherwise fall within another classification.

These causes have been defined because of their general character. The meaning of other causes should be apparent.

(C) The use of Form CG-4626 is not intended to lessen the need to set out all pertinent aspects of the casualty.

(D) Since the investigation must determine the cause of the casualty and possible evidence of violation of law or misconduct, the preparing officer must indicate which of the two #3 paragraphs on the form is applicable.

(E) The preparing officer should insure that the letter contains the date of transmittal, local file number, subject (giving vessel name and the name and USMMD number of person injured) and enclosure (Form CG-924E).

(F) Certain items on the form can be completed in pen or by use of a rubber stamp on each copy of the letter prepared. The addresses of the preparing and endorsing units and chain of command addresses may be added.

(G) Paragraph 5 should be sufficient in most instances to dispose of the master's remarks in block 29 of Form CG-924E. However, completing officers should not hesitate to modify it as necessary.

(H) Since Form CG-4626 is designated and intended for use in routine cases, OCMI and district commander endorsements need not add comments beyond what is already printed on the form. Thus, the disposition of any recommendation or action, with respect to suspension and revocation proceedings, may be omitted.

(I) An original and one copy of each completed Form CG-4626 shall be submitted to the district commander (mvs), who shall endorse the form and submit the original to Commandant (G-MMI-1) (see plates 72-5-10.1 and .2).

If Form CG-924E does not adequately describe the casualty, or if further investigation discloses facts which ought to be indicated, this information should be indicated either on Form CG-924E, as an initialed amendment to the master's remarks, or attached to the report on a separate sheet (which becomes part of the report). The letter of transmittal should contain the determinations required by 46 CFR 4.07-1(c). Frequently, the master does no more than state the result of the casualty on Form CG-924E. In such cases, the investigating officer should provide the explanation of how and where the casualty occurred and other factors involved. In determining what factors are pertinent it should be borne in mind that upon receipt of Form CG-4626 and Form CG-924E, the statistical code clerk at Headquarters should have available such items of data appearing in the "Annual Summary of Personal Injuries" published in the Proceedings of the Marine Safety Council, CG-129. The decision to add to the remarks of the master must ultimately rest upon the judgement of the investigator as to the adequacy of the master's description.

72-5-15. NARRATIVE REPORTS

72-5-15A. GENERAL

Essentially, the purpose of the investigative report of a marine casualty is to provide detailed factual data on which to base appropriate corrective measures. When the required information cannot be included in a letter of

transmittal, the report shall be submitted in letter form from the investigating officer to Commandant (G-MMI-1), through the chain of command. This report shall be in narrative form and shall consist of findings of fact, conclusions, and recommendations. In addition to the requirements contained in this subpart, the narrative report should also include appropriate requirement of subpart 72-5-5. The narrative format, which permits a pictorial presentation of the events and circumstances leading up to the casualty, is best employed for casualty analysis. The report should not be unnecessarily lengthy. Findings of fact should be limited to those raised by the casualty, and only to the degree necessary to acquire an understanding as to how and why the casualty occurred.

72-5-15B. SUBJECT

The subject description of the report shall include the name(s) and official number(s) of the vessel(s) involved; the type of casualty; the geographical area where it occurred; the date of casualty; and personal injury or loss of life sustained. For example, "SS NEVERSAIL, O.N. 123456 and SS CAREFUL, O.N. 789100; collision in the Gulf of Mexico on 1 January 1981, with loss of life."

72-5-15C. TOPIC

The findings of fact in the narrative report should begin with a topical paragraph consisting of a succinct description of "What," "When," "Where," "Who," and "Results" of the casualty. For example,

"The U.S. tankers HEAT and VICTORY collided at 1325 EST 10 November 1980, approximately one mile south of Maidens' Woe lighted buoy (LL 00000), Enteric Bay, Delaware. Fire and explosions ensued on both vessels, resulting in six crewmembers from the HEAT known dead, and three from the VICTORY missing. The latter three have not been recovered and it is presumed that they perished. A total of ten other crewmembers from both vessels suffered varying degrees of injury, mostly from flash burns, and were hospitalized. Both vessels incurred severe hull damage and were towed to Philadelphia after the fires were extinguished."

72-5-15D. VESSEL AND CARGO DATA

72-5-15D(1). Vessel Data. The topical paragraph should be followed by a description of the vessel(s) involved, including name(s), official number(s), service(s), dimensions, when and where built, home port(s), propulsion plant(s), horsepower, and name(s) and address(es) of the master(s). In addition, the name and address of the U.S. agent for a vessel of foreign registry shall be indicated when appropriate. For example:

Name:	HEAT	VICTORY
Official Number:	113111	311713
Service:	T-2 Tanker	Victory Tanker
Gross Tons:	10,500	7,500
Net Tons:	6,400	4,500
Length:	500 ft	500 ft
Breadth	65 ft	60 ft
Depth:	39 ft	34 ft

Propulsion:	Turbo-electric	Steam
H.P.:	6,000	6,000
Home Port:	Wilmington, Del.	San Pedro, Calif.
Owner/Operator:	Socrates, Inc., 25 South St., N.Y., N.Y.	Taenia Corp., River St., Hoboken, N.J.
Master:	Achilles Archimedes, 1 Park Ave., N.Y., N.Y.	V. Buffo, RFD #3, Webfoot, Maine
License:	Master Oceans #12825	Master Oceans #12792

NOTE: Narrative reports of motorboat accidents should include a comprehensive description of the boat(s) involved. Of particular importance are length; breadth; depth; freeboard; hull material; estimated weight and distribution aboard; make (manufactured or handmade); year built; propulsion; type of fuel; horsepower; flotation; name/number of boat; and other information pertaining to a material failure or condition of the boat(s).

72-5-15D(2). Cargo Data. If the vessel's cargo plays a role in the casualty, a description of it shall be included in the report. Such description should include the type of cargo; trade name (if any); the quantity; the shipper(s); and conditions of carriage (heated or cooled, pressurized, inhibited, etc.). Copies of cargo manifests shall be obtained for the record.

72-5-15E. RECORD OF DEAD AND INJURED

A list of those persons killed or injured (i.e., incapacitated for more than 72 hours) as a result of the casualty shall be compiled, as the data for the vessel(s). This list should contain the name(s); license/certificate number(s); age(s); home address(es); next-of-kin; and position in which serving at time of death or injury.

72-5-15F. WEATHER/TIDE/ELECTRONIC NAVIGATION AIDS

72-5-15F(1). A description of the weather prior to and at the time of the casualty (emphasizing visibility, where pertinent) shall follow the list of dead and injured. When weather is found to be a factor (particularly in motorboat cases), the board/investigating officer shall determine the weather forecast for the casualty period and whether such forecast was obtained by the operator prior to sailing. Sailing data on sea conditions, air and water temperatures, tides and currents, and related information should be included.

72-5-15F(2). When applicable, radar data should include the year, make, and scope size of the radar; the range scales available and in use; the bearing in use; and other relevant information. It is equally important to indicate failure to use radar prior to the casualty (see section 72-8-10J of this manual).

72-5-15F(3). The same type of data required for radar equipment should be included for other electronic equipment such as loran, fathometer, etc. Again, failure to utilize such equipment must be indicated (see paragraph 72-8-20D(1) of this manual).

72-5-15G. BODY OF THE REPORT

72-5-15G(1). After the foregoing information, there should be as many following paragraphs as necessary to complete the findings of fact. It should be borne in mind that the story of a casualty related in a report is the investigator's/board's evaluation of the evidence obtained. Actually, a finding of fact needs no reference to the evidence on which it is based except for emphasis. However, only those facts substantially supported by evidence should be included. Findings of fact should not consist merely of a condensation of witnesses' testimony or a parroting of views, though all facts on which conclusions are based should be noted.

72-5-15G(2). In general, when two or more vessels are involved in a casualty, events are best presented separately and chronologically for each vessel, rather than skipping from vessel to vessel. Testimony of witnesses will rarely agree in every detail; however, there should be general agreement as to basic facts. When there is marked disagreement, no attempt at reconciling the various versions should be attempted in the findings of fact. Such reconciliation will be reserved for the conclusions.

72-5-15G(3). Units such as time, bearing, and distance should be adequately described so that there is no doubt as to what is meant. Time should be described as zone, EST, GMT, etc. Distance should be referred to in feet, yards, nautical miles, etc., or in standard marine terms such as fathoms, cables, etc. If errors or discrepancies exist in the various accounts, log entries, etc., the sequence of events should be resolved as thoroughly as possible using a standardized system of measurement. Courses and bearings should be reckoned in degrees true and marked as such on evidentiary charts, diagrams, etc. Sea positions should be stated in degrees and minutes of longitude and latitude; if positions refer to charted objects, the true bearings and distances to them shall be indicated, as well as the title and number of the chart used. Spellings of geographical names should follow that shown on a chart, Coast Pilot, or other authoritative source. Local names or those of limited use should be clearly identified as such.

72-5-15G(4). Estimated time in the water until rescue or death should be included.

72-5-15G(5). If persons in distress were using lifesaving devices, the type and whether or not they were Coast Guard approved shall be stated. The effectiveness of non-approved lifesaving devices is of particular interest.

72-5-15G(6). If the master has made a safety recommendation in block 34 of Form CG-2692 or in block 29 of Form CG-924E, appropriate comment by the investigating officer is required.

72-5-15G(7). In cases where there has been loss of life, the requirements of section 72-5-50B should be documented.

72-5-15G(8). When applicable to inspected vessels, a statement concerning permanent repairs should be included. Failure to mention the status of permanent repairs frequently requires additional correspondence to ensure proper follow-up of such matters.

72-5-15G(9). When any uncharted or incorrectly charted objects are involved, or when a grounding occurs which indicates an incorrectly charted depth, a statement should be made concerning notification of the U.S. Army Corps of Engineers, National Oceanic & Atmospheric Administration, U.S. Geographic Service, or U.S. Naval Oceanographic Office, as appropriate.

72-5-15G(10). When aids to navigation are found to be off station, a statement should be made concerning notification of the Coast Guard district commander (oan).

72-5-20. CONCLUSIONS IN THE NARRATIVE REPORT

72-5-20A. GENERAL

The conclusions of the marine board/investigating officer as to what went wrong should be pertinent and based upon the testimony and evidence derived at the investigation. The conclusions should not attempt to establish a legal case for hearing by commenting with court citations, etc. Care shall be taken to avoid language which, if approved by the district commander or Commandant, might indicate that a person suspected of negligence or of violation of law or regulation has been prejudged without appropriate administrative or "evidence of negligence," rather than "negligence." Although the investigating officer's opinion as to the cause(s) of the casualty are valid, the place to express that opinion is on Form CG-2636, in cases of civil and criminal penalty proceedings, not in the narrative report's conclusions. In cases of suspension and revocation proceedings, the charges and specifications will speak for themselves.

72-5-20B. CAUSES OF THE CASUALTY

72-5-20B(1). Proximate Cause. The proximate cause of the casualty shall be stated to the extent determinable. Should the proximate cause not be determinable, a statement to that effect and the best deduction of probable cause based on the available evidence shall be given.

72-5-20B(2). Contributing Cause(s). Any contributing causes to the casualty shall be stated to the extent determinable. These include:

- Adverse weather or sailing conditions;
- Excessive noise or other distracting elements;
- Fatigue, intoxication, inadequate training or supervision, inexperience, physical or psychological handicap;
- Inadequate manning, design, or maintenance of vessel(s) or equipment.

If no contributing causes can be determined, the report shall contain the statement, "Insofar as can be determined, there were no contributing causes to this casualty."

72-5-20B(3). Description of Cause(s). Statements such as "faulty navigation," "material failure," or "unseaworthy" are not sufficient. In order to classify the case, it must be determined how the navigation was faulty, the material failed, or the vessel was unseaworthy. Further, the investigating officer must be careful not to identify a contributing cause of the casualty as the proximate cause (see paragraphs 72-2-5A(2) and (3) of this manual).

72-5-20B(4). Negligence. In general, most casualties can be traced to some type of human error. There are many instances in which such error is considered negligence, rather than an error in judgment. Court decisions and legal rulings have laid a foundation for determining what constitutes negligence, as the failure to exercise that care which a reasonable and prudent person would exercise under similar circumstances. It is incumbent upon the investigating officer to refer to court decisions, Coast Guard Law Bulletins, and Appeal Decisions to determine if the circumstances surrounding the casualty indicate evidence of negligence. Certain acts are not, by themselves, considered prima facie evidence of negligence. The question which the investigating officer must resolve is whether the casualty might have been prevented through the exercise of ordinary care, caution, and maritime skill. Personnel should be held accountable for what they knew or reasonably should have known, but not for what they did not or could not reasonably have known (again, consideration must be given to the surrounding circumstances).

In summary, the determination of evident negligence must be based upon a reasoned exercise of deliberate judgment, not upon an artificial listing of possible elements. Further, such determination should not be affected by the "likely" outcome of suspension and revocation/civil and criminal proceedings.

Examples of acts which may constitute negligence are:

- Failure to make proper allowances for the effects of weather and sailing conditions which should reasonable have been foreseen;
- Failure to obtain or properly use information available to the navigator, such as radar or radiotelephone, to determine the courses and speeds of other vessels;
- Failure to navigate with caution in restricted visibility, notwithstanding the fact that information as to the proximity and approach of other vessels was available to the navigator through radar;
- Failure to maintain a proper lookout;
- Failure to take bearings on navigational objects while the vessel was at anchor and prior to the vessel's going aground;
- Hugging the shore in navigating a river, especially when approaching a bend or a pier, resulting in excessive shallow water effect and subsequent grounding of the vessel;
- Failure to maintain a proper watch in that the operator fell asleep at the helm, resulting in collision;
- Failure to navigate within the prescribed limits of a channel, resulting in grounding;
- Navigating in channels where the depth of water is less than or nearly the same as the vessel's draft, resulting in grounding;
- Failure to maintain the proper water level in boilers;

- Failure to properly arrange valves when using the lube oil purifier, causing the turbine to run dry;
- Failure to engage the turbine jacking gear, causing the turbine rotor to bow;
- Failure to answer bells promptly;
- Failure of engineroom watch personnel to take appropriate action in the event of an engineroom casualty, such as the failure to secure electricity during an electrical fire;
- Failure to maintain proper alkalinity and salinity levels;
- Operation of vessel's equipment with safety devices bypassed;
- Excessive speed.

72-5-20C. RESOLVING CONFLICTING EVIDENCE IN CONCLUSIONS

Conflicting versions of material facts obtained should be resolved, wherever possible.

72-5-20D. CONCLUSIONS FROM MARINE BOARDS ON EVIDENCE OF CULPABILITY

Since reports from marine boards are submitted directly to the Commandant without administrative endorsement by the OCMI or district commander, it is essential that referrals for further investigation under other proceedings be made prior to submission to the Commandant. Separate referral will preclude later challenges to the Commandant's authority to deal with matters arising out of the investigation. While conclusions concerning evidence of culpability on the part of persons or corporate entities are necessary and should be included in the report, recommendations for the commencement of other proceedings shall be referred separately to the district commander. This action will be considered final insofar as the investigation of the casualty is concerned. The fact that a referral was made shall be indicated in the conclusions, which may express a finding of culpability. For example:

"There is evidence of violation of 46 U.S.C. 1461 (d), in negligent use of a vessel, on the part of the operator of the F/V ISRAEL DAVIS. This matter has been forwarded to the Commander, Eighth Coast Guard District for further investigation under the civil penalty proceedings."

"There is evidence of violation of 33 U.S.C. 209, Article 24 of the Inland Rules of the Road, on the part of John Doe, operator of the M/V NEGLIGENCE. This matter has been forwarded to the Commander, Third Coast Guard District for further investigation under the suspension and revocation proceedings."

"There is evidence that Captain Fred CLEON, USCG did, on 1 April 1980, while serving in command of United States Coast Guard Cutter PEQUOT (WHEC 637), while underway in the North Atlantic, negligently hazard said vessel by failing and neglecting to ascertain, or cause to be ascertained, the position,

true course, and speed of SS THUCYDIDES, a vessel whose presence was well known to him, before changing course from 000 True to approximately 090 True, which change put USCGC PEQUOT on a collision course with SS THUCYDIDES, as a result of which neglect USCGC PEQUOT collided with SS THUCYDIDES and was sunk with multiple loss of life, all in violation of Article 110, Uniform Code of Military Justice (UCMJ). This matter has been forwarded to the Commander, First Coast Guard District for further proceedings under the UCMJ."

72-5-20E. OTHER CONCLUSIONS

Conclusions with regard to the following points shall be included:

(1) Whether there is evidence of any material failure (physical or design). These conclusions should be specific; they should state wherein the failure was involved and whether it did or did not contribute to the casualty;

(2) Whether there is evidence that any act of misconduct, inattention to duty, negligence, incompetence, or willful violation of any law or regulation on the part of licensed or certificated personnel contributed to the casualty (see subpart 72-4-60).

When the investigating officer contemplates conclusions of evidence of negligent operation or personnel error, it is incumbent upon him to review the court decisions and legal rulings which have laid a foundation for determining what is negligent use of a vessel under the scope of 46 U.S.C. 1461(d). Coast Guard Law Bulletin No. 408 makes reference to the definition of negligence thus, as "the failure to exercise that care which a careful, reasonable, and prudent person would exercise under the circumstances." The statute prohibits the use of a vessel in a negligent manner so as to endanger the life, limb, or property of any person. The definition of use of a vessel is not restricted to the person actually operating a vessel. Negligent use of a vessel can be construed to mean any operation of a vessel which endangers the life, limb, or property of any person (see paragraph 72-5-20B(4)).

The decision to proceed against a person for violation of law rests with the appropriate district commander, and this decison should not be documented in the proper place to determine the guilt or innocence of the individuals or to discuss mitigating circumstances. This action should be the subject of a separate investigation;

(3) Whether there is evidence that any law or regulation relating to vessels has been violated. If any violations or other appropriate action should be prepared and processed as a separate administrative report;

(4) Whether there is evidence that any personnel of the Coast Guard or other government agency or any other person contributed to the casualty.

Conclusions with regard to the following parts shall be included, <u>if pertinent</u>:

(5) Whether any aids to navigation were involved. In this area, particular care should be exercised because of liability interests of the Government. Findings of fact should not be affected by this concern. Conclusions, however, should be handled with care. When a buoy is off station, this fact should not normally be considered as the primary cause of a grounding, since mariners are cautioned not to rely completely upon the position as being permanently fixed. In making such a determination, all the facts must be weighed honestly and carefully; although great care must be exercised not to haphazardly jeopardize the legitimate rights of the Government to protect itself against wrongful charges, the integrity of the Coast Guard investigative process must be maintained;

(6) Whether any uncharted or incorrectly charted objects were involved. Here again, care must be exercised not to hapharzardly jeopardize the Government's positon or the integrity of the Coast Guard's investigative process;

(7) Whether the casualty could have been prevented or its effect minimized and what precautions might be taken to prevent the recurrence of similar casualties;

(8) Commendable action on the part of Coast Guard, merchant marine, or other personnel may be mentioned in the conclusions. However, recommendations for awards should be made the subject of a separate administrative report (see subpart 72-1-30);

(9) When there is evidence of actionable or contributory fault on the part of a pilot, appropriate conclusions should be made as to his part in the casualty;

(10) Whether there is evidence of violation of 33 U.S.C. 408 when a vessel causes damage to a harbor or river improvement (e.g., seawall, bulkhead, jetty, dike, levy, wharf, pier, lock, etc.) constructed by or under the control of the United States;

(11) When a structural failure or equipment failure is involved, a statement should be made as to whether or not Form CG-2752 or Form CG-2752A, as appropriate, has been submitted (see subparts 72-2-35 and 30-5-35 of this manual).

72-5-25. RECOMMENDATIONS

72-5-25A. BASIS FOR RECOMMENDATIONS

Recommendations should be based upon the findings of fact and flow logically from the conclusions. Unsupported and non-pertinent recommendations must be avoided. Recommendations should be clear, simple, and easily understood. To be helpful and informative, recommendations should generally be limited to such remedial action as is indicated in the particular case. The individual casualty investigation may disclose, among other things, a specific material or personnel fault, a specific instance where applicable regulations are not sufficient, or a lack of experience on the part of a specific individual. Specific recommendations for remedial action are proper in such instances. To further

the development of effective recommendations, investigative personnel are encouraged to consult with district and Headquarters level program managers prior to finalizing recommendations regarding broad problem areas. Broad recommendations that go beyond the casualty reported or that are not connected with the casualty cannot be approved. In those cases where all possible action has already been taken, the recommendation should be that no further action be taken and that the case be closed.

72-5-25B. RECOMMENDATIONS AS TO CHARGING AND CITING -- REPORTS OF ROUTINE AND ONE-MAN FORMAL INVESTIGATIONS

It is the Commandant's policy to act against the license or certificate of an individual rather than citing him. However, where a penalty against a vessel is provided, the vessel should be cited regardless of the action recommended against the pilot and/or master. This action will help keep the operators aware of their responsibilities under the law. Further discussion of this policy is contained in Chapter 17 (Volume I) of this manual.

When action against licensed or certificated personnel is indicated the recommendation should properly be stated as follows: "It is recommended that further investigation under the suspension and revocation proceedings be initiated in the case of (name) concerning his part in the casualty." This will allow the Commandant to approve the report of the casualty and later act impartially on the record of the disciplinary proceedings.

72-5-25C. RECOMMENDATIONS AS TO CHARGING AND CITING NOT TO BE MADE BY MARINE BOARDS

Reports submitted by marine boards shall not contain recommendations for further investigations under suspension and revocation, civil penalty, or Uniform Code of Military Justice proceedings (see section 72-5-20D).

72-5-25D. REFERRAL TO OTHER AGENCIES AND COAST GUARD UNITS

Recommendations for referral to the Department of Justice for possible prosecution should set forth the statute violated. NOTE: In most cases, such referral will be at the district commander's level (after final action by the Commandant, in those cases requiring Commandant's Action)(see section 72-2-55A).

Recommendations shall be made for the referral to another department, office, or agency when there is evidence of violation(s) of laws or regulations that are not within the scope of the marine safety programs.

72-5-25E. PILOTS

(1) In a case in which there is evidence of criminal responsibility, a recommendation should be made for referral to the cognizant U.S. attorney;

(2) In the case of a pilot acting under authority of a Federal license, if evidence of fault is found, a recommendation should be made for further investigation looking to suspension or revocation of license, or, when appropriate, for action under civil penalty proceedings, or both;

(3) In the case of a pilot acting under authority of a State commission, no action to suspend or revoke a license is available; but, if there is evidence of violation of a statute providing for a monetary penalty, a recommendation should be made for further investigation under civil penalty proceedings;

(4) No recommendation should be made for forwarding a copy of the investigative report to State pilotage authorities; a State authority requesting a record may obtain it under the provisions of 49 CFR 7.

72-5-25F. FORWARDING OF REPORTS TO IMCO

A recommendation by the investigating officer that a copy of the report be forwarded to IMCO is required of a "serious casualty" (see section 72-1-25C(3) and paragraph 72-6-30A(4) of this manual).

72-5-25G. PROVIDING VESSEL OWNER WITH COPY OF CASUALTY REPORT

When the proximate or contributing cause of a casualty was due to a condition, act, or occurrence beyond the scope of existing law or regulation, the OCMI shall provide the vessel owner with a free copy of the casualty report. It may also be appropriate for the OCMI to furnish the owner with separate written recommendations, which, if followed, would have the effect of preventing similar casualties from recurring (e.g., if the contributing cause of a fatal accident was inadequate lighting, the owner should be advised of the need for additional lighting in a particular area). When this procedure is followed, the OCMI shall note in his endorsement that the vessel owner was advised by separate correspondence.

72-5-30. REVIEW OF REPORTS BY ENDORSING OFFICER

In accordance with 49 CFR 7, reports of investigation, unless specifically exempted from disclosure, are available to the public on request after completion. Investigative reports of cases not involving death are complete after the commanding officer's and/or district commander's endorsement; investigative reports of cases involving death are complete after the Commandant's action. Since these reports can reasonably be expected to focus attention upon the quality of investigations and will expose to public evaluation the consideration given and action taken by responsible seniors, endorsing officers must critically review each case. Endorsing officers must be particularly alert to potential liability created whenever the findings of fact, conclusions, or recommendations contain statements contrary to the best interest of the United States; statements of a libelous nature; or statements which in any other way might involve the Government or subscribing officers in litigation. Endorsing officers should not disapprove reports solely because of disagreement with the investigating officer's evaluation of the evidence. Reports and endorsement should not refer to the Marine Safety Manual or Coast Guard administrative memoranda, since these change frequently and cannot be applied as legal standards. In general, reports should be returned for revision or reconsideration whenever:

- Facts are insufficient, incomplete, or obviously in error;
- Conclusions are in conflict with or are not supported by the facts;
- Recommendations are unsound, not pertinent, or contain erroneous citations;
- The report contains improprieties, imprudent disclosures, or extraneous matter; or
- The basic purpose for the investigation has not been accomplished.

72-5-35. REVISION OF INVESTIGATIVE REPORT

When reports are returned for revision, the fundamental problem or undesirable element is often indicated. The investigating officer should review the material, reinvestigate or reconsider the circumstances consistent with available experienced assistance, and reach an adequate report. It is not the prerogative of the reviewing authorities to state categorically what is desired. Those persons on-scene are best informed and qualified to assess the various factors present. However, this assessment must be definitive, lacking contradiction, and complete in all respects. If doubt or contradiction remains, the report must be returned for clarification (but if errors or discrepancies are relatively minor, the report need not be resubmitted).

72-5-40. SUBMISSION OF REPORTS

Investigative reports normally shall be submitted directly to Commandant (G-MMI-1) by the OCMI. Reports shall be forwarded via the district commander (m) when:

(1) They contain comments or recommendations concerning the adequacy or inadequacy of Coast Guard performance or operational programs (SAR, VTS, etc.);

(2) They involve possible culpability on the part of an officer or employee of the Government;

(3) They involve possible claims against the Government;

(4) They contain recommendations which require action by the district commander;

(5) They have been convened by the district commander.

The OCMI and district commander endorsements should indicate whether the report is forwarded "approved" or "disapproved." If the latter, reasons for disapproval shall be indicated. Each reviewing officer should indicate his action(s) regarding the recommendations of the report which are within his authority, and comment specifically on those requiring action(s) by higher authority (see 46 CFR 4.07-10). In making any independent recommendations, endorsing officers shall be guided by the principles set forth in subpart 72-5-25.

72-5-45. VIOLATIONS

72-5-45A. GENERAL

The regulations and procedures for the investigation of violations are entirely separate from those pertaining to casualty investigations, although the two are somewhat related. The purpose of the casualty investigation is to determine the cause(s) of a casualty after ascertaining the facts. It is not a trial and its purpose is not to determine the guilt or innocence of individuals. Therefore, the procedures should not be combined, and an adequate cleavage between these functions enables action in one area without regard to the other. In those cases where there is evidence of a violation which is within the scope of civil and criminal penalty proceedings, a Report of Violation (Form CG-2636) or other appropriate document should be prepared and processed as a separate administrative report.

72-5-45B. LICENSED OR CERTIFICATED PERSONNEL

If a person is acting within the authority of his license or certificate, the suspension and revocation proceedings in 46 CFR 5 apply. The casualty report should conclude that there is evidence of violation rather than state categorically that the offender is guilty of the violation. A recommendation that further investigation within the suspension and revocation proceedings be conducted is appropriate. Concurrence or nonconcurrence with the investigating officer's conclusions and recommendations, and a statement on the actions within the endorsing officer's authority, should be included in the forwarding endorsements when there is evidence of a violation. Under no circumstance should the casualty report be retained at the local level pending the outcome of the disciplinary proceedings, since the results of such proceedings are not included in the casualty report. In marine board cases and cases involving loss of life, action on the recommendations should not be held in abeyance pending receipt of publication of the Commandant's Action. Concurrence by the Commandant in his action indicates only that he agrees that there is evidence of violation and that he desires further investigation within the "due process" procedural safeguards of 46 CFR 5.

72-5-45C. PERSONS NOT LICENSED OR CERTIFICATED

If a person is not acting within the authority of his license or certificate or is not licensed or certificated, the civil penalty procedures in 33 CFR 1.07 apply. The casualty report should conclude that there is evidence of violation and recommend further investigation within civil and criminal penalty proceedings. If the OCMI approves the recommendation, his endorsement should contain a statement to the effect that the report of violation has been forwarded to the district commander for his evaluation of the alleged violation. If the OCMI disapproves the recommendation, the reasons therefor shall be stated and the violation report shall not be forwarded. When the report is forwarded, the endorsement of the district commander should state that the alleged violation is under review. The adjudication of violation cases involving civil penalties is a function of the district commander, and the decision to uphold, mitigate, or remit a penalty is within his discretion. Further actions on the violation report should not be held in abeyance pending receipt

for publication of the Commandant's Action in marine board and death cases. The Commandant will then be in a position to agree that there is evidence of violation and permit the district commander to make an impartial evaluation of the alleged violation. Should there be a subsequent appeal, the Commandant then may not be accused of prejudging the violation. It must be remembered that civil and criminal penalty proceedings are a valuable enforcement tool of the Coast Guard and that they must be protected. It must also be remembered that the Report of Violation never becomes a part of the casualty investigation record, since it represents a function separate unto itself.

72-5-45D. STATE PILOTS

When a violation reported according to section 72-5-25E involves a pilot serving under a State commission, the district commander shall ensure, before instituting action under civil penalty procedures, that:

(1) The alleged violator was in fact serving under a State commission (under 46 U.S.C. 211);

(2) The evidence indicates violation of a statute containing a monetary penalty provision within Coast Guard enforcement authority; and

(3) The alleged offense is of a serious nature.

72-5-50. DEATHS AND PERSONAL INJURIES

72-5-50A. GENERAL

In many cases, the Coast Guard will be the only agency investigating the circumstances surrounding the death of an individual at sea. Loss of life resulting from a marine casualty or accident shall be investigated in accordance with 46 U.S.C. 239. Apparent natural deaths, which 46 U.S.C. 239 does not address, shall be inquired into adequately enough to ascertain that the death was in fact natural and not the result of a marine casualty or accident, negligence, inattention to duty, misconduct, or violation of law or regulation on the part of any licensed or certificated personnel or any other person. It is important that the public know that all death cases are inquired into thoroughly and that the Coast Guard is particularly alert to the possibility of "foul play" or questionable circumstances.

72-5-50B. NARRATIVE REPORTS OF ACCIDENTAL DEATH

From a humanitarian standpoint, it is important that a complete account be made of the events and circumstances leading to an accidental death. This account should be concise, since some details leading to an accidental death are extraneous and serve no purpose. The record should contain only as much supporting data as necessary. Reports of death due to natural causes are not required.

72-5-50B(1). When Report Is Required. Narrative reports of investigation are required in all cases involving accidental death.

72-5-50B(2). Contents Of Report. The following shall be included in all narrative reports of death:

(a) The name, age, home address, and next of kin of the deceased, as well as the date, place of death, and name of the vessel(s) involved;

(b) The license or Merchant Mariner's Document, if any, held by the deceased shall be described, as well as details of the document's disposition. If available, the Merchant Mariner's Document or Continuous Discharge Book should be retained in the office file (or delivered to the next of kin, if requested). A license should be returned to the OCMI at the port of issue (or delivered to the next of kin, if requested). It is not desirable to include this document as part of a public record. Passports should be forwarded directly to Commandant (G-MVP);

(c) Circumstances surrounding the death should be carefully described. This should include medical treatment afforded aboard the vessel, the name of the physician or medical personnel (if in attendance) aboard the vessel, and the name and address of any hospital or clinic involved. Autopsy reports may be used to document that the physical condition, possible death before the casualty, or possible physical defect of persons could have been involved in the casualty. Police reports, post-mortem examination, autopsy reports, or other authoritative reports should be used to support the investigating officer's narrative report where legally available; however, reports from other authorities do not replace the investigating officer's report. In this connection, careful consideration must be given to compliance with section 37(e) of the Federal Boat Safety Act of 1971, 46 U.S.C. 1486(e), when utilizing information obtained from boating accident reports, and to the provisions set forth in subpart 72-6-15 of this manual. The proximate cause of death should be set forth clearly. If the cause of death was drowning and a lifesaving device was used, the contributing cause of death should be indicated, as well as the approval number or suitable identification of a non-approved device. Contributing causes of death include, but are not limited to: exposure, failure or inadequacy of lifesaving device, severe injury, entrapment in vessel, embolism (bends), and pulmonary decompression barotrauma (chest squeeze). In cases where immersion hypothermia caused or contributed to a loss of life, the facts relative to immersion hypothermia should be set forth in the investigative report. In cases of accidental death (e.g., from falling overboard), the causes of the casualty shall be set forth in addition to the cause of death. This shall be done in the same manner as described in sections 72-5-5A and 72-5-20A;

(d) Disposition of the body;

(e) Disposition of the personal effects and wages of deceased seamen who were required to be signed on shipping articles on a foreign or intercoastal voyage;

(f) A properly certified copy of the Extract of Shipping Articles (Form CG-2639H) and copies of the official logbook entries in those cases for which the vessel is required to keep such documents;

(g) A death certificate in those cases where one is issued by a state or other appropriate authority;

(h) If a lifesaving device was not used in a commercial vessel drowning case, conclusions are desired as to why a lifesaving device was not utilized, if this can be reasonably deduced. Examples include: none available on boat; quickness of accident made accessibility impossible; injured to extent could not reach or use lifesaving device; intoxicated to extent could not reach or use lifesaving device; health conditions prevented victim from reaching lifesaving device; panicked or drowned while attempting a rescue;

(i) Include information on how the survivors escaped death. Particular comment is desired concerning the adequacy of lifesaving devices or other approved equipment. Also, comment is desired on improvised lifesaving methods used;

(j) If the master or operator has made a safety recommendation in block 29 of Form CG-924E, appropriate comment by the investigating officer is required.

See plate 72-5-50B(2).1 for a sample narrative report on natural death for non-certificated personnel, and plate 72-5-50B(2).2 for a sample narrative report on natural death for certificated personnel.

72-5-50C. DEATH CERTIFICATES

A death certificate, if obtainable, should be included in each investigative report that involves loss of life. In most cases, these certificates can be obtained through county or city officials or the State bureau of vital statistics. In those cases where death certificates are not issued, a statement in the conclusions by the investigating officer (if it is his conclusion) that "(name) is missing and presumed dead" will often assist the next of kin in settling Social Security, insurance, and related matters. It must be borne in mind that the Coast Guard has no statutory authority to issue certification of death or presumptive death in cases of deceased or missing seamen. However, the Coast Guard will make available copies of any records which might be helpful in determining or arriving at conclusions as to death. A certified copy of the vessel's official log entry and a copy of the Coast Guard's report of investigation are frequently considered as evidence of death for certain purposes. See section 72-6-45D for letters of presumed deaths by a marine board.

72-5-50D. DEATHS AND INJURIES OF SEAMEN NOT ONBOARD VESSEL

72-5-50D(1). Deaths and Injuries Ashore. Generally, the death of a seaman ashore does not constitute a reportable marine casualty. If illnesses were initially contracted or discovered aboard ship, conditions aboard should be investigated to determine whether they caused or contributed to the development of the illness, and whether proper care was afforded while the person was on board. If a person is found to be suffering from a chronic condition such as diabetes, tuberculosis, high blood pressure or the like, and succumbs after an extended period of hospitalization, such a case is not reportable. The U.S. Public Health Service publication Ship's Medicine Chest and First Aid at Sea sets forth the principles for proper care. A narrative report to Commandant (G-MMI-1) is desired only if the conditions found and the care afforded, with-

in the realm of vessel operations, caused or contributed to the death; an informative administrative report forwarding licenses or documents to Commandant (G-MMI) may be appropriate. (NOTE: Although a hard-and-fast rule cannot be laid down, an investigation is justified if it appears that information for the promotion of safety of life at sea may be obtained.)

72-5-50D(2). Deaths and Injuries In Proximity of Vessel, From Accidental Causes. The term "marine casualty or accident" is defined in 46 CFR 4 as any casualty involving a vessel. For the purpose of casualty investigations, the vessel is considered to be involved if the casualty occurs on board, and directly involves the vessel's operation or appurtenances. The following cases will be considered to involve the vessel's operation or appurtenances:

- Death or injury on a dock, pier, etc., while handling a vessel's lines;
- Death or injury while on or handling a vessel's accommodation ladder;
- Death or injury on a dock, pier, etc., as a result of being struck by cargo or other falling objects from the vessel;
- Death or injury to any diver, including a scuba diver, while diving from a vessel.

72-5-50D(3). Deaths and Injuries Ashore--Cases Not Under Coast Guard Jurisdiction. The following cases do not involve the vessel, her operations, or her appurtenances and are therefore beyond the scope of Coast Guard casualty investigation: death or injury as a result of falling on or off a pier, dock, etc.; assault ashore (though possibly a subject for investigation under suspension and revocation proceedings); and traffic accidents.

72-5-50E. DEATHS, INJURIES, OR DAMAGES RESULTING FROM VESSEL WAKE

Deaths, injuries, or damages ashore that are alleged to have resulted from a vessel's wake are not marine casualties, but may be law enforcement cases. However, deaths, injuries, or damages to or on board a vessel (whether or not secured to a dock, underway, or anchored) and alleged to have been caused by another vessel's wake are marine casualties.

72-5-50F. LOSS OF LIFE ON ARTIFICIAL ISLANDS OR FIXED STRUCTURES ON THE OUTER CONTINENTAL SHELF (OCS)

A report by the owner, his agent, or the person in charge of an artificial island or fixed structure on the OCS is required for any instance of death on such a unit, whether accidental or natural. The Coast Guard shall in turn investigate the incident. A death occurring as a result of operations conducted pursuant to the OCSLAA, §22 (d)(2), is a "casualty" and therefore reportable in accordance with 33 CFR 146.01-20. It should be noted that in many cases the Coast Guard is the only agency investigating loss of life on artificial islands or fixed structures. In this regard, every attempt should be made to require the reporting and thorough investigation of such casualties.

72-5-55. SUBMISSION OF INVESTIGATIVE REPORTS

Report of casualty investigations should be completed and submitted to Commandant (G-MMI-1) no later than six months after the date of the casualty. Timely submission of these reports will provide for improved administrative control and prompt correction of hazardous conditions. If this submission date cannot be met, a letter is required from the cognizant OCMI or chairman of the marine board to Commandant (G-MMI-1), stating the causes for the delay and the estimated date of completion. If the report is not completed by the estimated date, a followup is required.

PLATE 72-5-5B(1).1

From: Investigating Officer
To: Commandant (G-MMI-1)
Via: (1) Officer in Charge, Marine Inspection, New Orleans, LA
(2) Commander, Eighth Coast Guard District (mvs)

Subj: M/V THERESA, O.N. 123456, with Barge A-Bee-Cee, O.N. 654321 in tow; grounding at Mile 1 AHP Mississippi River on 1 December 1974, with no personnel injuries

1. Investigation of the subject case is completed; a narrative report will not be submitted.

2. The proximate cause of the casualty was an error in judgement on the part of the operator, in that he failed to allow for the effect the current would have on his vessel while transiting a bend in the river. As a result, the vessel and its tow went aground on the left descending bank of the river.

3. Contributing to the cause of the casualty was a strong current (freshet) which resulted from heavy rains.

4. There is no evidence of actionable misconduct, inattention to duty, negligence, or willful violation of law or regulation on the part of licensed or certificated personnel; nor evidence of failure of inspected material or equipment; nor evidence that any personnel of the Coast Guard, or of any other Federal agency, or any other person contributed to the cause of this casualty. Therefore, it is recommended that this case be closed.

JOSEPH SNIFF

Encl: (1) M/VTHERESA Form CG-2692
(2) Barge A-Bee-Cee Form CG-2692

PLATE 72-5-5B(1).1 (cont.)

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-2692 (Rev. 12-70)

REPORT OF VESSEL CASUALTY OR ACCIDENT

Form Approved
OMB No. 04-R1002
REPORTS CONTROL SYMBOL
MVI-4617

INSTRUCTIONS

1. An original and two copies of this form shall be submitted, without delay, to the Officer in Charge, Marine Inspection, in whose district the casualty occurred, or in whose district the vessel first arrived after such casualty.
2. If the person making the report is a licensed officer on a vessel required to be manned by such officer, he must make the report in writing and in person to the proper Marine Inspector. If because of distance it may be inconvenient for such an officer to submit the report in person, he may submit the required number of copies by mail. However, to avoid delay in investigations, it is desired that reports be submitted in person.
3. This form should be completed in full; blocks which do not apply to a particular case should be indicated as "NA". Where answers are unknown or none, they should be indicated as such. All copies should be signed.

NOTE: (1) Report all deaths and injuries, which incapacitate in excess of 72 hours, on CG-924E whether or not there was a vessel casualty.
(2) Attach separate Form CG-924E to this report for each person killed or injured and incapacitated in excess of 72 hours as a result of the vessel casualty reported herein.

TO: Officer in Charge, Marine Inspection, Port of NEW ORLEANS, LA

DATE SUBMITTED: 1 January 1975

I PARTICULARS OF VESSEL

1 NAME OF VESSEL: THERESA	2 OFFICIAL NUMBER: 123456	3 HOME PORT: New Orleans, LA	4 NATIONALITY: USA
5 TYPE OF VESSEL (Ftr., passe., tkr., etc.): Towing	6 PROPULSION (Steam, diesel, etc.): Diesel	7 GROSS TONNAGE: 113	8 REGISTERED LENGTH OR L.O.A.: 73'
9 HULL MATERIALS: Steel	10 YEAR BUILT: 1952	11 RADIO EQUIPMENT: [X] TRANSMIT [X] RECEIVE [X] VOICE [ ] CW (Key)	
12 (a) RADAR EQUIPPED: [X] YES [ ] NO		(b) IF YES, RADAR OPERATING AT TIME OF CASUALTY: [X] YES [ ] NO	
13 (a) CERTIFICATE OF INSPECTION ISSUED AT PORT OF: N/A		(c) DATE CERTIFICATE OF INSPECTION ISSUED: N/A	
14 (a) NAME OF [illegible] PERSON IN CHARGE (Indicate which): J. J. Johnson		(b) DATE OF BIRTH: 12/14/36	(c) LICENSED BY COAST GUARD: [X] YES [ ] NO
15 (a) NAME OF PILOT (If on board at time of casualty): N/A		(b) PILOT SERVING UNDER AUTHORITY OF LICENSE ISSUED BY: [ ] USCG N/A [ ] STATE [ ] FOREIGN	
16 (a) NAME OF OWNER(S) [illegible] (Indicate which): A. B. C. Towing Company		(b) ADDRESS OF OWNER(S) [illegible]: 111 River Drive, New Orleans, LA 70100	

II PARTICULARS OF CASUALTY

17 (a) DATE OF CASUALTY: 1 December 1974	(b) TIME OF CASUALTY (Local or zone): 0900 CST	(c) ZONE DESCRIPTION: +6	(d) TIME OF DAY: [X] DAY [ ] NIGHT [ ] TWILIGHT

18 LOCATION OF CASUALTY (Latitude and longitude; distance and TRUE bearing from charted object; creek; anchorage; etc.): Mile 1 AHP, Mississippi River

19 BODY OF WATER (Geographical name): Mississippi River	20 RULES OF THE ROAD APPLICABLE: [X] INLAND [ ] GREAT LAKES [ ] WESTERN RIVERS [ ] INTERNATIONAL [ ] OTHER (Specify)	
21 (a) DID CASUALTY OCCUR WHILE UNDERWAY: [X] YES [ ] NO		
(b) IF YES, LAST PORT OF DEPARTURE: St. Louis, MO	(c) IF YES, WHERE BOUND WHEN CASUALTY OCCURRED: Galveston, TX	

22 (a) WEATHER CONDITIONS WHEN CASUALTY OCCURRED: [ ] CLEAR [X] PARTLY CLOUDY [ ] OVERCAST [ ] FOG [ ] RAIN [ ] SNOW [ ] OTHER (Specify)

(b) VISIBILITY (Miles, yds., ft., etc.): 7 Miles	(c) WIND DIRECTION: S.W.	(d) FORCE IN KNOTS: 07	(e) GUSTY: [X] YES [X] NO	(f) AIR TEMPERATURE: 48°	
23 (a) SEA CONDITIONS WHEN CASUALTY OCCURRED: Calm	(b) SEA WATER TEMP (If available): 45°	(c) HEIGHT OF SEA: N/A	(d) DIRECTION OF SEA: N/A	(e) HEIGHT OF SWELL: N/A	(f) DIRECTION OF SWELL: N/A
24 (a) NATURE OF CARGO (Specify): N/A	(b) AMOUNT OF DRY CARGO (Long tons): N/A	(c) AMOUNT OF BULK LIQUID (Long tons): N/A	(d) AMOUNT OF DECK LOAD (Long tons): N/A		
25 (a) DRAFT FORWARD: Approx. 5'		(b) DRAFT AFT: Approx. 7'			
26 (a) TYPES OF LIFESAVING EQUIPMENT USED, IF ANY: N/A		(b) NO. LIVES SAVED WITH LIFESAVING EQUIPMENT: N/A	(c) LIFESAVING EQUIPMENT SATISFACTORY: [ ] YES [ ] NO (If no, explain in Item 34)		

PLATE 72-5-5B(1).1 (cont.)

27	CREW	PASSENGERS	OTHER (Specify)
NUMBER ON BOARD	3	0	0
DEAD/MISSING	0	0	0
INCAPACITATED (over 72 hours)	0	0	0

28 ESTIMATED LOSS/DAMAGE TO YOUR VESSEL $2,000
ESTIMATED LOSS/DAMAGE TO YOUR CARGO $ 0
ESTIMATED LOSS/DAMAGE TO OTHER PROPERTY $ 0
(Specify whether vessel, dock, bridge, etc.)

29 NATURE OF THE CASUALTY (Check one or more of the following. Give pertinent details in Item 30.)

	COLLISION WITH OTHER VESSEL(S) (Specify)		EXPLOSION/FIRE (Other)
		X	GROUNDING
			FOUNDER (Sinking)
	COLLISION WITH FLOATING OR SUBMERGED OBJECTS		CAPSIZING WITHOUT SINKING
	COLLISION WITH FIXED OBJECTS (Piers, bridges, etc.)		FLOODING, SWAMPING, ETC. WITHOUT SINKING
	COLLISION WITH ICE		HEAVY WEATHER DAMAGE
	COLLISION WITH AIDS TO NAVIGATION		CARGO DAMAGE (No vessel damage)
	COLLISION (Other)		MATERIAL FAILURE (Vessel structure)
	EXPLOSION/FIRE (Involving cargo)		MATERIAL FAILURE (Engineering machinery, including main propulsion, auxiliaries, boilers, evaporators, deck machinery, electrical, etc.)
	EXPLOSION/FIRE (Involving vessel's fuel)		
	FIRE (Vessel's structure or equipment)		EQUIPMENT FAILURE
	EXPLOSION (Boiler and associated parts)		CASUALTY NOT NAMED ABOVE
	EXPLOSION (Pressure vessels and compressed gas cylinders)		

30 DESCRIPTION OF CASUALTY (Events and circumstances leading to casualty and process when it occurred. Attach diagram and additional sheets, if necessary)

Upon taking a bend in the river I lost control of my tow due to unexpected current and both my vessel and its tow came into contact with the river bottom.

31 DAMAGE (Give brief, general description and state if vessel is a total loss.)

Slight ~~scoring~~ indentation of plating on underbody hull of towing vessel.
No damage to barge.

HI ASSISTANCE AND RECOMMENDATIONS

32 AUTO ALARM TRANSMITTED BY YOUR VESSEL: ☐ YES ☒ NO

33(a) ASSISTANCE RENDERED BY STATIONS AND VESSELS (Include Coast Guard and other stations and vessels)

None

(b) OTHER ASSISTANCE RENDERED

None

34 RECOMMENDATIONS FOR CORRECTIVE SAFETY MEASURES PERTINENT TO THIS CASUALTY (Include explanation of unsatisfactory lifesaving equipment)

None

TITLE Operator

SIGNATURE J. D. JOHNSON

PLATE 72-5-5B(1).1 (cont.)

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-2692 (Rev. 12-70)

REPORT OF VESSEL CASUALTY OR ACCIDENT

Form Approved
OMB No. 04-R3003
REPORTS CONTROL SYMBOL
MVI-4017

INSTRUCTIONS

1. An original and two copies of this form shall be submitted, without delay, to the Officer in Charge, Marine Inspection, in whose district the casualty occurred, or in whose district the vessel first arrived after such casualty.
2. If the person making the report is a licensed officer on a vessel required to be manned by such officer, he must make the report in writing and in person to the proper Marine Inspector. If because of distance it may be inconvenient for such an officer to submit the report in person, he may submit the required number of copies by mail. However, to avoid delay in investigations, it is desired that reports be submitted in person.
3. This form should be completed in full; blocks which do not apply to a particular case should be indicated as "NA". Where answers are unknown or none, they should be indicated as such. All copies should be signed.

NOTE: (1) Report all deaths and injuries, which incapacitate in excess of 72 hours, on CG-924E whether or not there was a vessel casualty.
(2) Attach separate Form CG-924E to this report for each person killed or injured and incapacitated in excess of 72 hours as a result of the vessel casualty reported herein.

TO: Officer in Charge, Marine Inspection, Port of NEW ORLEANS, LA

DATE SUBMITTED: 1 January 1975

I PARTICULARS OF VESSEL

1 NAME OF VESSEL: A.B.C.	2 OFFICIAL NUMBER: 654321	3 HOME PORT: New Orleans, LA	4 NATIONALITY: USA
5 TYPE OF VESSEL (Ft., passa., fish., etc.): Freight Barge	6 PROPULSION (Steam, diesel, etc.): N/A	7 GROSS TONNAGE: 1000	8 REGISTERED LENGTH OR L.B.A.: 120'
9 HULL MATERIALS: Steel	10 YEAR BUILT: 1958	11 RADIO EQUIPMENT: ☐ TRANSMIT N/A ☐ RECEIVE ☐ VOICE ☐ CW (Key)	
12 (a) RADAR EQUIPPED: ☐ YES ☒ NO		(b) IF YES, RADAR OPERATING AT TIME OF CASUALTY: ☐ YES ☐ NO N/A	
13 (a) CERTIFICATE OF INSPECTION ISSUED AT PORT OF: N/A		(c) DATE CERTIFICATE OF INSPECTION ISSUED: N/A	
14 (a) NAME OF PERSON IN CHARGE (Indicate which): J. J. Johnson		(b) DATE OF BIRTH: 12/14/36	(c) LICENSED BY COAST GUARD: ☒ YES ☐ NO
15 (a) NAME OF PILOT (If on board at time of accident): N/A		(b) PILOT SERVING UNDER AUTHORITY OF LICENSE ISSUED BY: ☐ USCG N/A ☐ STATE ☐ FOREIGN	
16 (a) NAME OF OWNER(S) (Indicate which): A.B.C. Towing Company		(b) ADDRESS OF OWNER(S): 111 River Drive, New Orleans, LA 70100	

II PARTICULARS OF CASUALTY

17 (a) DATE OF CASUALTY: 1 December 1974	(b) TIME OF CASUALTY (Local or zone): 0900 CST	(c) ZONE DESCRIPTION: +6	(d) TIME OF DAY: ☒ DAY ☐ NIGHT ☐ TWILIGHT

18. LOCATION OF CASUALTY (Latitude and longitude, distance and TRUE bearing from charted object; dock; anchorage; etc.): Mile 1 AHP, Mississippi River

19. BODY OF WATER (Geographical name): Mississippi River

20. RULES OF THE ROAD APPLICABLE: ☒ INLAND ☐ GREAT LAKES ☐ WESTERN RIVERS ☐ INTERNATIONAL ☐ OTHER (Specify)

21. (a) DID CASUALTY OCCUR WHILE UNDERWAY: ☒ YES ☐ NO

(b) IF YES, LAST PORT OF DEPARTURE: St. Louis, MO

(c) IF YES, WHERE BOUND WHEN CASUALTY OCCURRED: Galveston, TX

22. (a) WEATHER CONDITIONS WHEN CASUALTY OCCURRED: ☐ CLEAR ☒ PARTLY CLOUDY ☐ OVERCAST ☐ FOG ☐ RAIN ☐ SNOW ☐ OTHER (Specify)

(b) VISIBILITY (Miles, yds., ft., etc.): 7 Miles	(c) WIND DIRECTION: S.W.	(d) FORCE IN KNOTS: 07	(e) GUSTY: ☒ YES ☒ NO	(f) AIR TEMPERATURE: 48°	
23. (a) SEA CONDITIONS WHEN CASUALTY OCCURRED: Calm	(b) SEA WATER TEMP (If available): 45°	(c) HEIGHT OF SEA: N/A	(d) DIRECTION OF SEA: N/A	(e) HEIGHT OF SWELL: N/A	(f) DIRECTION OF SWELL: N/A
24. (a) NATURE OF CARGO (Specify): Grain	(b) AMOUNT OF DRY CARGO (Long tons): N/A	(c) AMOUNT OF BULK LIQUID (Long tons): N/A	(d) AMOUNT OF DECK LOAD (Long tons): N/A		
25. (a) DRAFT FORWARD: Est. 5'		(b) DRAFT AFT: Est. 5'			
26. (a) TYPES OF LIFESAVING EQUIPMENT USED, IF ANY: N/A		(b) NO. LIVES SAVED WITH LIFESAVING EQUIPMENT: N/A	(c) LIFESAVING EQUIPMENT SATISFACTORY: ☒ YES ☐ NO (If no, explain in Item 34)		

PLATE 72-5-5B(1).1 (cont.)

27	CREW	PASSENGERS	OTHER (Specify)
NUMBER ON BOARD	0	0	0
DEAD/MISSING	0	0	0
INCAPACITATED (over 3 days)	0	0	0

28 ESTIMATED LOSS/DAMAGE TO YOUR VESSEL $0

ESTIMATED LOSS/DAMAGE TO YOUR CARGO $0

ESTIMATED LOSS/DAMAGE TO OTHER PROPERTY $2,000 6
(Specify whether vessel, dock, bridge, etc.)

29 NATURE OF THE CASUALTY (Check one or more of the following. Give pertinent details in Item 30.)

	COLLISION WITH OTHER VESSEL(S) (Specify)		EXPLOSION/FIRE (Other)
		X	GROUNDING
	COLLISION WITH FLOATING OR SUBMERGED OBJECTS		FOUNDER (Sinking)
	COLLISION WITH FIXED OBJECTS (Piers, bridges, etc.)		CAPSIZING WITHOUT SINKING
	COLLISION WITH ICE		FLOODING SWAMPING ETC WITHOUT SINKING
	COLLISION WITH AIDS TO NAVIGATION		HEAVY WEATHER DAMAGE
	COLLISION (Other)		CARGO DAMAGE (No vessel damage)
	EXPLOSION/FIRE (Involving cargo)		MATERIAL FAILURE (Vessel structure)
	EXPLOSION/FIRE (Involving vessel's fuel)		MATERIAL FAILURE (Engineering machinery, including main propulsion, auxiliaries, boilers, evaporators, deck machinery, electrical, etc.)
	FIRE (Vessel's structure or equipment)		EQUIPMENT FAILURE
	EXPLOSION (Boiler and associated parts)		CASUALTY NOT NAMED ABOVE
	EXPLOSION (Pressure vessels and compressed gas cylinders)		

30 DESCRIPTION OF CASUALTY (Events and circumstances leading to casualty and present when it occurred. Attach diagram and additional sheets, if necessary)

See CG-2692 for M/V THERESA

31 DAMAGE (Give brief general description and state if vessel is a total loss.)

None to barge

III ASSISTANCE AND RECOMMENDATIONS

32 AUTO ALARM TRANSMITTED BY YOUR VESSEL: ☐ YES ☒ NO

33(a) ASSISTANCE RENDERED BY STATIONS AND VESSELS (Include Coast Guard and other stations and vessels)

None

(b) OTHER ASSISTANCE RENDERED

None

34 RECOMMENDATIONS FOR CORRECTIVE SAFETY MEASURES PERTINENT TO THIS CASUALTY (Include explanation of unsatisfactory lifesaving equipment)

None

TITLE
Operator

SIGNATURE J. J. Johnson
J. J. JOHNSON

PLATE 72-5-5B(1).2

FIRST ENDORSEMENT on Investigating Officer's ltr; etc.--

From: Officer in Charge, Marine Inspection, New Orleans, La.
To: Commandant (G-MMI-1)
Via: Commander, Eighth Coast Guard District (mvs)

Subj: M/V THERESA, O.N. 123456, with Barge A.B.C., O.N. 654321, in tow; grounding at Mile 1 AHP Mississippi River on 1 December 1974, with no personnel injuries

1. Forwarded approved.

A.C. Boss
A. C. BOSS

SECOND ENDORSEMENT on Investigating Officer's ltr; etc.--

From: Commander, Eighth Coast Guard District (mvs)
To: Commandant (G-MMI-1)

Subj: M/V THERESA, O.N. 123456, with Barge A.B.C., O.N. 654321, in tow; grounding at Mile 1 AHP Mississippi River on 1 December 1974, with no personnel injuries

1. Forwarded approved.

W.S. Bigdome
W. S. BIGDOME
By direction

PLATE 72-5-5B(2).1

From: Investigating Officer
To: Commandant (G-MMI-1)
Via: (1) Officer in Charge, Marine Inspection, New Orleans, LA
(2) Commander, Eighth Coast Guard District (mvs)

Subj: SS CAREFUL, O.N. 123456; collision with M/V NEGLIGENCE, O.N. 654321, at Mile 1 AHP Mississippi River on 2 December 1974, with no personnel injuries

1. Investigation of the subject case is completed; a narrative report will not be submitted.

2. The proximate cause of this casualty was the failure of the operator of the M/V NEGLIGENCE to keep clear when burdened in an overtaking situation. Inland rules applied at the time.

3. A contributing cause was the operator's unfamiliarity with the vessel's handling characteristics, in that he had been on board the M/V NEGLIGENCE for only one day prior to the casualty.

4. There is evidence of violation of 33 U.S.C. 209, Article 24 of the Inland Rules of the Road, on the part of the operator of the M/V NEGLIGFNCE.

5. It is recommended that further investigation under the suspension and revocation procedures be initiated in the case of E. Fudd, operator of the M/V NEGLIGENCE, concerning his part in the casualty.

6. Repairs to the SS CAREFUL were completed on 21 January 1975 to the satisfaction of the Officer in Charge, Marine Inspection, New Orleans, LA.

7. With the exception of the above, there is no evidence of actionable misconduct, inattention to duty, negligence, or willful violation of law or regulation on the part of licensed or certificated personnel; nor evidence of failure of inspected equipment or material; nor evidence that any personnel of the Coast Guard or of any other Federal agency, or any other person contributed to this casualty. Therefore, it is recommended that this casualty investigation be closed.

J. OINK

Encl: (1) SS CAREFUL Form CG-2692
(2) M/V NEGLIGENCE Form CG-2692

PLATE 72-5-5B(2).1 (cont.)

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-2692 (Rev. 12-70)

REPORT OF VESSEL CASUALTY OR ACCIDENT

Form Approved
OMB No. 04-R3003
REPORTS CONTROL SYMBOL
MVI-4617

INSTRUCTIONS

1. An original and two copies of this form shall be submitted, without delay, to the Officer in Charge, Marine Inspection, in whose district the casualty occurred, or in whose district the vessel first arrived after such casualty.
2. If the person making the report is a licensed officer on a vessel required to be manned by such officer, he must make the report in writing and in person to the proper Marine Inspector. If because of distance it may be inconvenient for such an officer to submit the report in person, he may submit the required number of copies by mail. However, to avoid delay in investigations, it is desired that reports be submitted in person.
3. This form should be completed in full; blocks which do not apply to a particular case should be indicated as "NA". Where answers are unknown or none, they should be indicated as such. All copies should be signed.

NOTE: (1) Report all deaths and injuries, which incapacitate in excess of 72 hours, on CG-924E whether or not there was a vessel casualty.
(2) Attach separate Form CG-924E to this report for each person killed or injured and incapacitated in excess of 72 hours as a result of the vessel casualty reported herein.

TO: Officer in Charge, Marine Inspection, Port of NEW ORLEANS, LA

DATE SUBMITTED: 1 January 1975

I PARTICULARS OF VESSEL

1 NAME OF VESSEL: CAREFUL	2 OFFICIAL NUMBER: 123456	3 HOME PORT: New York, NY	4 NATIONALITY: USA
5 TYPE OF VESSEL (Ft., passe., tkr., etc.): CARGO	6 PROPULSION (Steam, diesel, etc.): steam	7 GROSS TONNAGE: 6,000	8 REGISTERED LENGTH OR L.O.A.: 500'
9 HULL MATERIALS: Steel	10 YEAR BUILT: 1950	11 RADIO EQUIPMENT: [X] TRANSMIT [X] RECEIVE [X] VOICE [ ] CW (Key)	
12 (a) RADAR EQUIPPED: [X] YES [ ] NO		(b) IF YES, RADAR OPERATING AT TIME OF CASUALTY: [X] YES [ ] NO	
13 (a) CERTIFICATE OF INSPECTION ISSUED AT PORT OF: New York, NY		(b) DATE CERTIFICATE OF INSPECTION ISSUED: 2 September 1974	
14 (a) NAME OF MASTER (Indicate which): A. A. ADAMS		(b) DATE OF BIRTH: 12/13/36	(c) LICENSED BY COAST GUARD: [X] YES [ ] NO
15 (a) NAME OF PILOT (If on board at time of accident): M. M. MILLER		(b) PILOT SERVING UNDER AUTHORITY OF LICENSE ISSUED BY: [ ] USCG [X] STATE [ ] FOREIGN	
17 (a) NAME OF OWNER(S) (Indicate which): Lots of Freight Co.		(b) ADDRESS OF OWNER(S): 1 Chase Manhattan Plaza, New York, NY 10000	

II PARTICULARS OF CASUALTY

17 (a) DATE OF CASUALTY: 1 December 1974	(b) TIME OF CASUALTY (Local or zone): 0900 CST	(c) ZONE DESCRIPTION: +6	(d) TIME OF DAY: [X] DAY [ ] NIGHT [ ] TWILIGHT

18 LOCATION OF CASUALTY (Latitude and longitude, distance and TRUE bearing from charted object, draft, anchorage, etc.): Mile 1 AHP, Mississippi River

19 BODY OF WATER (Geographical name): Mississippi River	20 RULES OF THE ROAD APPLICABLE: [X] INLAND [ ] GREAT LAKES [ ] WESTERN RIVERS [ ] INTERNATIONAL [ ] OTHER (Specify)

21 (a) DID CASUALTY OCCUR WHILE UNDERWAY: [X] YES [ ] NO

(b) IF YES, LAST PORT OF DEPARTURE: New Orleans, LA	(c) IF YES, WHERE BOUND WHEN CASUALTY OCCURRED: New York, NY

22 (a) WEATHER CONDITIONS WHEN CASUALTY OCCURRED: [ ] CLEAR [X] PARTLY CLOUDY [ ] OVERCAST [ ] FOG [ ] RAIN [ ] SNOW [ ] OTHER (Specify)

(b) VISIBILITY (Miles, yds., ft., etc.): 7 miles	(c) WIND DIRECTION: S.W.	(d) FORCE IN KNOTS: 07	(e) GUSTY: [ ] YES [X] NO	(f) AIR TEMPERATURE: 48°	
23 (a) SEA CONDITIONS WHEN CASUALTY OCCURRED: calm	(b) SEA WATER TEMP (If available): 45°.	(c) HEIGHT OF SEA: N/A	(d) DIRECTION OF SEA: N/A	(e) HEIGHT OF SWELL: N/A	(f) DIRECTION OF SWELL: N/A
24 (a) NATURE OF CARGO (Specify): Iron Ore	(b) AMOUNT OF DRY CARGO (Long tons): 4,000	(c) AMOUNT OF BULK LIQUID (Long tons): N/A	(d) AMOUNT OF DECK LOAD (Long tons): N/A		
25 (a) DRAFT FORWARD: 30'		(b) DRAFT AFT: 34'			
26 (a) TYPES OF LIFESAVING EQUIPMENT USED, IF ANY: N/A		(b) NO. LIVES SAVED WITH LIFESAVING EQUIPMENT: N/A	(c) LIFESAVING EQUIPMENT SATISFACTORY: [X] YES [ ] NO (If no, explain in Item 34)		

PLATE 72-5-5B(2).1 (cont.)

27	CREW	PASSENGERS	OTHER (Specify)
NUMBER ON BOARD	38	0	0
DEAD/MISSING	0	0	0
INCAPACITATED (over 3 days)	0	0	0

28 ESTIMATED LOSS/DAMAGE TO YOUR VESSEL $ 25,000
ESTIMATED LOSS/DAMAGE TO YOUR CARGO $ 0
ESTIMATED LOSS/DAMAGE TO OTHER PROPERTY $ 20,000
(Specify whether vessel, dock, bridge, etc.)

29 NATURE OF THE CASUALTY (Check one or more of the following. Give pertinent details in item 30.)

X	COLLISION WITH OTHER VESSEL(S) (Specify) M/V NEGLIGENCE		EXPLOSION/FIRE (Other)
			GROUNDING
			FOUNDER (Sinking)
	COLLISION WITH FLOATING OR SUBMERGED OBJECTS		CAPSIZING WITHOUT SINKING
	COLLISION WITH FIXED OBJECTS (Piers, bridges, etc.)		FLOODING, SWAMPING, ETC., WITHOUT SINKING
	COLLISION WITH ICE		HEAVY WEATHER DAMAGE
	COLLISION WITH AIDS TO NAVIGATION		CARGO DAMAGE (No vessel damage)
	COLLISION (Other)		MATERIAL FAILURE (Vessel structure)
	EXPLOSION/FIRE (Involving cargo)		MATERIAL FAILURE (Engineering machinery, including main propulsion, auxiliaries, boilers, evaporators, deck machinery, electrical, etc.)
	EXPLOSION/FIRE (Involving vessel's fuel)		
	FIRE (Vessel's structure or equipment)		EQUIPMENT FAILURE
	EXPLOSION (Boiler and associated parts)		CASUALTY NOT NAMED ABOVE
	EXPLOSION (Pressure vessels and compressed gas cylinders)		

30 DESCRIPTION OF CASUALTY (Events and circumstances leading to casualty and present when it occurred. Attach diagram and additional sheets, if necessary)

I was the priviledged vessel in an overtaking situation. The M/V NEGLIGENCE collided with my port side while attempting to pass.

31 DAMAGE (Give brief general description and state if vessel is a total loss.)

Damage to side plating on port side.

III ASSISTANCE AND RECOMMENDATIONS

32 AUTO ALARM TRANSMITTED BY YOUR VESSEL: ☐ YES ☒ NO

33(a) ASSISTANCE RENDERED BY STATIONS AND VESSELS (Include Coast Guard and other stations and vessels)

None

(b) OTHER ASSISTANCE RENDERED

None

34 RECOMMENDATIONS FOR CORRECTIVE SAFETY MEASURES PERTINENT TO THIS CASUALTY (Include explanation of unsatisfactory lifesaving equipment)

None

TITLE: Master

SIGNATURE: A. A. Adams
A. A. ADAMS

PLATE 72-5-5B(2).1 (cont.)

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-2692 (Rev. 12-70)

REPORT OF VESSEL CASUALTY OR ACCIDENT

Form Approved
OMB No. 04-R3003
REPORTS CONTROL SYMBOL
SVI-4617

INSTRUCTIONS

1. An original and two copies of this form shall be submitted, without delay, to the Officer in Charge, Marine Inspection, in whose district the casualty occurred, or in whose district the vessel first arrived after such casualty.
2. If the person making the report is a licensed officer on a vessel required to be manned by such officer, he must make the report in writing and in person to the proper Marine Inspector. If because of distance it may be inconvenient for such an officer to submit the report in person, he may submit the required number of copies by mail. However, to avoid delay in investigations, it is desired that reports be submitted in person.
3. This form should be completed in full; blocks which do not apply to a particular case should be indicated as "NA". Where answers are unknown or none they should be indicated as such. All copies should be signed.

NOTE: (1) Report all deaths and injuries, which incapacitate in excess of 72 hours, on CG-924E whether or not there was a vessel casualty.
(2) Attach separate Form CG-924E to this report for each person killed or injured and incapacitated in excess of 72 hours as a result of the vessel casualty reported herein.

TO: Officer in Charge, Marine Inspection, Port of NEW ORLEANS, LA

DATE SUBMITTED: 1 January 1975

I PARTICULARS OF VESSEL

1 NAME OF VESSEL: NEGLIGENCE	2 OFFICIAL NUMBER: 654321	3 HOME PORT: New Orleans	4 NATIONALITY: U.S.A.
5 TYPE OF VESSEL (Pkt., passe., tkr., etc.): TOWING	6 PROPULSION (Steam, diesel, etc.): Diesel	7 GROSS TONNAGE: 105	8 REGISTERED LENGTH OR L B A: 70'
9 HULL MATERIALS: Steel	10 YEAR BUILT: 1950	11 RADIO EQUIPMENT: ☒ TRANSMIT ☒ RECEIVE ☒ VOICE ☐ CW (Key)	
12 (a) RADAR EQUIPPED: ☒ YES ☐ NO		(b) IF YES, RADAR OPERATING AT TIME OF CASUALTY: ☐ YES ☐ NO	
13 (a) CERTIFICATE OF INSPECTION ISSUED AT PORT OF: N/A		(c) DATE CERTIFICATE OF INSPECTION ISSUED: N/A	
14 (a) NAME OF PERSON IN CHARGE (Indicate whether): E. FUDD		(b) DATE OF BIRTH: 12/21/36	(c) LICENSED BY COAST GUARD: ☐ YES ☐ NO
15 (a) NAME OF PILOT (If on board at time of accident): N/A		(b) PILOT SERVING UNDER AUTHORITY OF LICENSE ISSUED BY: ☐ USCG N/A ☐ STATE ☐ FOREIGN	
16 (a) NAME OF OWNER(S) (Indicate whether): Foolish Towing Company		(b) ADDRESS OF OWNER(S): 2 Orleans Pl. New Orleans, LA 70101	

II PARTICULARS OF CASUALTY

17 (a) DATE OF CASUALTY: 1 December 1974	(b) TIME OF CASUALTY (Local or zone): 0900 CST	(c) ZONE DESCRIPTION: +6	(d) TIME OF DAY: ☒ DAY ☐ NIGHT ☐ TWILIGHT

18 LOCATION OF CASUALTY (Latitude and longitude, distance and TRUE bearing from charted object; dock; anchorage; etc.): Mile 1 AHP, Mississippi River

19 BODY OF WATER (Geographical name): Mississippi River	20 RULES OF THE ROAD APPLICABLE: ☐ INLAND ☐ GREAT LAKES ☐ WESTERN RIVERS ☐ INTERNATIONAL ☐ OTHER (Specify)	
21 (a) DID CASUALTY OCCUR WHILE UNDERWAY: ☒ YES ☐ NO		
(b) IF YES, LAST PORT OF DEPARTURE: New Orleans, LA	(c) IF YES, WHERE BOUND WHEN CASUALTY OCCURRED: Galveston, TX	

22 (a) WEATHER CONDITIONS WHEN CASUALTY OCCURRED: ☐ CLEAR ☒ PARTLY CLOUDY ☐ OVERCAST ☐ FOG ☐ RAIN ☐ SNOW ☐ OTHER (Specify)

(b) VISIBILITY (Miles, yds., ft., etc.): 7 Miles	(c) WIND DIRECTION: S.W.	(d) FORCE IN KNOTS: 07	(e) GUSTY: ☐ YES ☒ NO	(f) AIR TEMPERATURE: 48°	
23 (a) SEA CONDITIONS WHEN CASUALTY OCCURRED: Calm	(b) SEA WATER TEMP (If available): 45°	(c) HEIGHT OF SEA: N/A	(d) DIRECTION OF SEA: N/A	(e) HEIGHT OF SWELL: N/A	(f) DIRECTION OF SWELL: N/A
24 (a) NATURE OF CARGO (Specify): N/A	(b) AMOUNT OF DRY CARGO (Long tons): N/A	(c) AMOUNT OF BULK LIQUID (Long tons): N/A	(d) AMOUNT OF DECK LOAD (Long tons): N/A		
25 (a) DRAFT FORWARD: 6'		(b) DRAFT AFT: 7'			
26 (a) TYPES OF LIFESAVING EQUIPMENT USED, IF ANY: N/A		(b) NO. LIVES SAVED WITH LIFESAVING EQUIPMENT: N/A	(c) LIFESAVING EQUIPMENT SATISFACTORY: ☒ YES ☐ NO (If no, explain in Item 34)		

PLATE 72-5-5B(2).1 (cont.)

27	CREW	PASSENGERS	OTHER (Specify)
NUMBER ON BOARD	3	0	0
DEAD/MISSING	0	0	0
INCAPACITATED (over 5 days)	0	0	0

28 ESTIMATED LOSS/DAMAGE TO YOUR VESSEL $20,000
ESTIMATED LOSS/DAMAGE TO YOUR CARGO $ 0
ESTIMATED LOSS/DAMAGE TO OTHER PROPERTY $25,000
(Specify whether vessel, dock, bridge, etc.)

29 NATURE OF THE CASUALTY (Check one or more of the following. Give pertinent details in Item 30.)

X	COLLISION WITH OTHER VESSEL(S) (Specify) SS CAREFUL		EXPLOSION/FIRE (Other)
			GROUNDING
			FOUNDER (Sinking)
	COLLISION WITH FLOATING OR SUBMERGED OBJECTS		CAPSIZING WITHOUT SINKING
	COLLISION WITH FIXED OBJECTS (Piers, bridges, etc.)		FLOODING SWAMPING ETC WITHOUT SINKING
	COLLISION WITH ICE		HEAVY WEATHER DAMAGE
	COLLISION WITH AIDS TO NAVIGATION		CARGO DAMAGE (No vessel damage)
	COLLISION (Other)		MATERIAL FAILURE (Vessel structure)
	EXPLOSION/FIRE (Involving cargo)		MATERIAL FAILURE (Engineering machinery, including main propulsion, auxiliaries, boilers, evaporators, deck machinery, electrical, etc.)
	EXPLOSION/FIRE (Involving vessel's fuel)		
	FIRE (Vessel's structure or equipment)		EQUIPMENT FAILURE
	EXPLOSION (Boiler and associated parts)		CASUALTY NOT NAMED ABOVE
	EXPLOSION (Pressure vessels and compressed gas cylinders)		

30 DESCRIPTION OF CASUALTY (Events and circumstances leading to casualty and present when it occurred. Attach diagram and additional sheets, if necessary)

I was attempting to pass the SS CAREFUL when my boat sheered to starboard and I collided with her port side.

31 DAMAGE (Give below general description and state if vessel is a total loss.)

Extensive damage to starboard forward hull - plating was crushed.

III ASSISTANCE AND RECOMMENDATIONS

32 AUTO ALARM TRANSMITTED BY YOUR VESSEL: ☐ YES ☒ NO

33(a) ASSISTANCE RENDERED BY STATIONS AND VESSELS (Include Coast Guard and other stations and vessels)

None

(b) OTHER ASSISTANCE RENDERED

None

34 RECOMMENDATIONS FOR CORRECTIVE SAFETY MEASURES PERTINENT TO THIS CASUALTY (Include explanation of unsatisfactory lifesaving equipment)

None

TITLE: OPERATOR

SIGNATURE: E. Fudd
E. FUDD

PLATE 72-5-5B(2).2

FIRST ENDORSEMENT on Investigating Officer's letter, etc. --

From: Officer in Charge, Marine Inspection, New Orleans, LA
To: Commandant (G-MMI-1)
Via: Commander, Eighth Coast Guard District (mvs)

Subj: SS CAREFUL, O.N. 123456; collision with M/V NEGLIGENCE, O.N. 654321, at Mile 1 AHP Mississippi River on 1 December 1974, with no personnel injuries

1. Forwarded approved.

2. Further investigation under the suspension and revocation procedures has been initiated in the case of E. Fudd, operator of the M/V NEGLIGENCE, for possible violation of 33 U.S.C. 204.

A.C. Boss
A.C. BOSS

SECOND ENDORSEMENT on Investigating Officer's letter, etc. --

From: Commander, Eighth Coast Guard District (mvs)
To: Commandant (G-MMI-1)

Subj: SS CAREFUL, O.N. 123456; collision with M/V NEGLIGENCE, O.N. 654321, at Mile 1 AHP Mississippi River on 1 December 1974, with no personnel injuries

1. Forwarded approved.

W.S. Bigdome
W.S. BIGDOME
By direction

PLATE 72-5-5B(3).1

From: Investigating Officer
To: Commandant (G-MMI-1)
Via: (1) Officer in Charge, Marine Inspection, New Orleans, LA
(2) Commander, Eighth Coast Guard District (mvs)

Subj: F/V JANET LUCILLE, O.N. 123456; collision with F/V BLOOMER, O.N. 654321, in the Gulf of Mexico on 3 December 1974, with personnel injury

1. Investigation of the subject case is completed; a narrative report will not be submitted.

2. The proximate cause of this casualty was the failure of the lookout on board F/V JANET LUCILLE to maintain a proper lookout. International rules applied at the time.

3. Insofar as can be determined, there were no contributing causes to this casualty.

4. There is evidence of violation of 46 U.S.C. 1461(d), negligent use of a vessel, on the part of the operator of the F/V JANET LUCILLE.

5. It is recommended that further investigation under the civil penalty procedures be initiated in the case of T.T. Thomas, operator of the F/V JANET LUCILLE, concerning his part in this casualty.

6. As a result of this casualty, I.M. Hurt, operator of the F/V BLOOMER, suffered a broken arm which rendered him incapacitated for a period exceeding 72 hours. The injury was a result of Mr. Hurt's being knocked to the deck of the F/V BLOOMER by the force of the collision.

7. With the above exception, there is no evidence of actionable misconduct, inattention to duty, or negligent or willful violation of law or regulation on the part of licensed or certificated personnel; nor any evidence of failure of inspected equipment or material; nor evidence that any personnel of the Coast Guard or of any other Federal agency, or any other person contributed to this casualty. Therefore, it is recommended that this casualty investigation be closed.

HEAVY HANDED

Encl: (1) F/V JANET LUCILLE Form CG-2692
(2) F/V BLOOMER Form CG-2692
(3) I.M. Hurt Form CG-924E

PLATE 72-5-5B(3).1 (cont.)

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-2692 (Rev 12-70)

REPORT OF VESSEL CASUALTY OR ACCIDENT

Form Approved
OMB No. 04-R3003
REPORTS CONTROL SYMBOL MVI-4017

INSTRUCTIONS

1. An original and two copies of this form shall be submitted, without delay, to the Officer in Charge, Marine Inspection, in whose district the casualty occurred, or in whose district the vessel first arrived after such casualty.
2. If the person making the report is a licensed officer on a vessel required to be manned by such officer, he must make the report in writing and in person to the proper Marine Inspector. If because of distance it may be inconvenient for such an officer to submit the report in person, he may submit the required number of copies by mail. However, to avoid delay in investigations, it is desired that reports be submitted in person.
3. This form should be completed in full; blocks which do not apply to a particular case should be indicated as "NA". Where answers are unknown or none, they should be indicated as such. All copies should be signed.

NOTE: (1) Report all deaths and injuries, which incapacitate in excess of 72 hours, on CG-924E whether or not there was a vessel casualty.
(2) Attach separate Form CG-924E to this report for each person killed or injured and incapacitated in excess of 72 hours as a result of the vessel casualty reported herein.

TO: Officer in Charge, Marine Inspection, Port of NEW ORLEANS, LA

DATE SUBMITTED: 1 January 1975

I PARTICULARS OF VESSEL

1 NAME OF VESSEL	2 OFFICIAL NUMBER	3 HOME PORT	4 NATIONALITY
JANET LUCILLE	123456	Galveston, TX	USA

5 TYPE OF VESSEL (Ftr., pass., tkr., etc.)	6 PROPULSION (Steam, diesel, etc.)	7 GROSS TONNAGE	8 REGISTERED LENGTH OR L O A
Fishing	Diesel	87	65'

9 HULL MATERIALS	10 YEAR BUILT	11 RADIO EQUIPMENT
Wood	1955	☒ TRANSMIT ☒ RECEIVE ☒ VOICE ☐ CW (Key)

12 (a) RADAR EQUIPPED	(b) IF YES, RADAR OPERATING AT TIME OF CASUALTY
☐ YES ☒ NO	☐ YES ☒ NO

13 (a) CERTIFICATE OF INSPECTION ISSUED AT PORT OF	(b) DATE CERTIFICATE OF INSPECTION ISSUED
N/A	N/A

14 (a) NAME OF MASTER OR PERSON IN CHARGE (Indicate which)	(b) DATE OF BIRTH	(c) LICENSED BY COAST GUARD
T. T. THOMAS	12/14/46	☐ YES ☒ NO

15 (a) NAME OF PILOT (If on board at time of accident)	(b) PILOT SERVING UNDER AUTHORITY OF LICENSE ISSUED BY
N/A	☐ USCG N/A ☐ STATE ☐ FOREIGN

16 (a) NAME OF OWNER(S) OPERATOR(S) (Indicate which)	(b) ADDRESS OF OWNER OPERATOR(S)
T. T. THOMAS	1 French Plaza New Orleans, LA 70200

II PARTICULARS OF CASUALTY

17 (a) DATE OF CASUALTY	(b) TIME OF CASUALTY (Local or zone)	(c) ZONE DESCRIPTION	(d) TIME OF DAY
1 December 1974	0900 CST	+6	☒ DAY ☐ NIGHT ☐ TWILIGHT

18 LOCATION OF CASUALTY (Latitude and longitude, distance and TRUE bearing from charted object, dock, anchorage, etc.)

28N 83W, Gulf of Mexico

19 BODY OF WATER (Geographical name)	20 RULES OF THE ROAD APPLICABLE
Gulf of Mexico	☐ INLAND ☐ GREAT LAKES ☐ WESTERN RIVERS ☒ INTERNATIONAL ☐ OTHER (Specify)

21 (a) DID CASUALTY OCCUR WHILE UNDERWAY: ☒ YES ☐ NO

(b) IF YES LAST PORT OF DEPARTURE	(c) IF YES, WHERE BOUND WHEN CASUALTY OCCURRED
New Orleans, LA	Fishing

22 (a) WEATHER CONDITIONS WHEN CASUALTY OCCURRED:
☐ CLEAR ☒ PARTLY CLOUDY ☐ OVERCAST ☐ FOG ☐ RAIN ☐ SNOW ☐ OTHER (Specify)

(b) VISIBILITY (Miles, yds., ft., etc.)	(c) WIND DIRECTION	(d) FORCE IN KNOTS	(e) GUSTY	(f) AIR TEMPERATURE
10 Miles	S.W.	07	☐ YES ☒ NO	48°

23 (a) SEA CONDITIONS WHEN CASUALTY OCCURRED	(b) SEA WATER TEMP (If available)	(c) HEIGHT OF SEA	(d) DIRECTION OF SEA	(e) HEIGHT OF SWELL	(f) DIRECTION OF SWELL
Calm	45°	2'	S	2 1/2'	S.W.

24 (a) NATURE OF CARGO (Specify)	(b) AMOUNT OF DRY CARGO (Long tons)	(c) AMOUNT OF BULK LIQUID (Long tons)	(d) AMOUNT OF DECK LOAD (Long tons)
N/A	N/A	N/A	N/A

25 (a) DRAFT FORWARD	(b) DRAFT AFT
06'	06'

26 (a) TYPES OF LIFESAVING EQUIPMENT USED, IF ANY	(b) NO LIVES SAVED WITH LIFE-SAVING EQUIPMENT	(c) LIFESAVING EQUIPMENT SATISFACTORY
N/A	N/A	☒ YES ☐ NO (If no, explain in Item 34)

PLATE 72-5-5B(3).1 (cont.)

27	CREW	PASSENGERS	OTHER (Specify)
NUMBER ON BOARD	2	0	0
DEAD/MISSING	0	0	0
INCAPACITATED (over 72 hours)	0	0	0

28 ESTIMATED LOSS/DAMAGE TO YOUR VESSEL $6000.00
ESTIMATED LOSS/DAMAGE TO YOUR CARGO $
ESTIMATED LOSS/DAMAGE TO OTHER PROPERTY $ 7500.00
(Specify whether vessel, dock, bridge, etc.)

29 NATURE OF THE CASUALTY (Check one or more of the following. Give pertinent details in Item 30.)

X	COLLISION WITH OTHER VESSEL(S) (Specify) F/V BLOOMER		EXPLOSION/FIRE (Other)
			GROUNDING
			FOUNDER (Sinking)
	COLLISION WITH FLOATING OR SUBMERGED OBJECTS		CAPSIZING WITHOUT SINKING
	COLLISION WITH FIXED OBJECTS (Piers, bridges, etc.)		FLOODING, SWAMPING, ETC., WITHOUT SINKING
	COLLISION WITH ICE		HEAVY WEATHER DAMAGE
	COLLISION WITH AIDS TO NAVIGATION		CARGO DAMAGE (No vessel damage)
	COLLISION (Other)		MATERIAL FAILURE (Vessel structure)
	EXPLOSION/FIRE (Involving cargo)		MATERIAL FAILURE (Engineering machinery, including main propulsion, auxiliaries, boilers, evaporators, deck machinery, electrical, etc.)
	EXPLOSION/FIRE (Involving vessel's fuel)		
	FIRE (Vessel's structure or equipment)		EQUIPMENT FAILURE
	EXPLOSION (Boiler and associated parts)		CASUALTY NOT NAMED ABOVE
	EXPLOSION (Pressure vessels and compressed gas cylinders)		

30 DESCRIPTION OF CASUALTY (Events and circumstances leading to casualty and persons when it occurred. Attach diagram and additional sheets, if necessary)

I was fishing with nets over, when, as I was tending the nets with my deck hand, our vessel collided with another fishing vessel.

31 DAMAGE (Give brief general description and state if vessel is a total loss.)

Damage to side of ship. Approximately $5000 worth of repair work necessary. Vessel able to get back to port unassisted.

III ASSISTANCE AND RECOMMENDATIONS

32 AUTO ALARM TRANSMITTED BY YOUR VESSEL: ☐ YES ☒ NO

33(a) ASSISTANCE RENDERED BY STATIONS AND VESSELS (Include Coast Guard and other stations and vessels)

None

(b) OTHER ASSISTANCE RENDERED

None

34 RECOMMENDATIONS FOR CORRECTIVE SAFETY MEASURES PERTINENT TO THIS CASUALTY (Include explanation of uncontrollable circumstances)

None

TITLE: Operator

SIGNATURE: T. T. THOMAS

PLATE 72-5-5B(3).1 (cont.)

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-2692 (Rev. 12-70)

REPORT OF VESSEL CASUALTY OR ACCIDENT

Form Approved
OMB No. 04-R3003
REPORTS CONTROL SYMBOL
MVI-4917

INSTRUCTIONS

1. An original and two copies of this form shall be submitted, without delay, to the Officer in Charge, Marine Inspection, in whose district the casualty occurred, or in whose district the vessel first arrived after such casualty.
2. If the person making the report is a licensed officer on a vessel required to be manned by such officer, he must make the report in writing and in person to the proper Marine Inspector. If because of distance it may be inconvenient for such an officer to submit the report in person, he may submit the required number of copies by mail. However, to avoid delay in investigations, it is desired that reports be submitted in person.
3. This form should be completed in full; blocks which do not apply to a particular case should be indicated as "NA". Where answers are unknown or none, they should be indicated as such. All copies should be signed.

NOTE: (1) Report all deaths and injuries, which incapacitate in excess of 72 hours, on CG-924E whether or not there was a vessel casualty.
(2) Attach separate Form CG-924E to this report for each person killed or injured and incapacitated in excess of 72 hours as a result of the vessel casualty reported herein.

TO: Officer in Charge, Marine Inspection, Port of NEW ORLEANS, LA

DATE SUBMITTED: 1 January 1975

I PARTICULARS OF VESSEL

1 NAME OF VESSEL	2 OFFICIAL NUMBER	3 HOME PORT	4 NATIONALITY
BLOOMER	654321	New Orleans	U.S.A.

5 TYPE OF VESSEL (Pvt., pass., frt., etc.)	6 PROPULSION (Steam, diesel, etc.)	7 GROSS TONNAGE	8 REGISTERED LENGTH OR L B A
Fishing	Diesel	93'	70'

9 HULL MATERIALS	10 YEAR BUILT	11 RADIO EQUIPMENT
Wood	1955	☒ TRANSMIT ☒ RECEIVE ☐ VOICE ☐ CW (Key)

12 (a) RADAR EQUIPPED	(b) IF YES, RADAR OPERATING AT TIME OF CASUALTY
☐ YES ☒ NO	☐ YES ☒ NO

13 (a) CERTIFICATE OF INSPECTION ISSUED AT PORT OF	(c) DATE CERTIFICATE OF INSPECTION ISSUED
N/A	N/A

14 (a) NAME OF ~~MASTER~~ PERSON IN CHARGE (Indicate which)	(b) DATE OF BIRTH	(c) LICENSED BY COAST GUARD
I. M. HURT	12/6/40	☐ YES ☒ NO

15 (a) NAME OF PILOT (If on board at time of accident)	(b) PILOT SERVING UNDER AUTHORITY OF LICENSE ISSUED BY
N/A	☐ USCG N/A ☐ STATE ☐ FOREIGN

16 (a) NAME OF ~~OWNER~~ OPERATOR(S) ~~OR AGENT~~ (Indicate which)	(b) ADDRESS OF ~~OWNER~~ OPERATOR(S) ~~OR AGENT~~
I. M. HURT	1 1st Street New Orleans, LA 70222

II PARTICULARS OF CASUALTY

17 (a) DATE OF CASUALTY	(b) TIME OF CASUALTY (Local or zone)	(c) ZONE DESCRIPTION	(d) TIME OF DAY
1 December 1974	0900 CST	+6	☒ DAY ☐ NIGHT ☐ TWILIGHT

18 LOCATION OF CASUALTY (Latitude and longitude, distance and TRUE bearing from charted object, shoal, anchorage, etc.)
28N 83W, Gulf of Mexico

19 BODY OF WATER (Geographical name)	20 RULES OF THE ROAD APPLICABLE
Gulf of Mexico	☐ INLAND ☐ GREAT LAKES ☐ WESTERN RIVERS ☒ INTERNATIONAL ☐ OTHER (Specify)

21 (a) DID CASUALTY OCCUR WHILE UNDERWAY: ☒ YES ☐ NO

(b) IF YES LAST PORT OF DEPARTURE	(c) IF YES, WHERE BOUND WHEN CASUALTY OCCURRED
New Orleans	Fishing in Gulf

22 (a) WEATHER CONDITIONS WHEN CASUALTY OCCURRED:
☐ CLEAR ☒ PARTLY CLOUDY ☐ OVERCAST ☐ FOG ☐ RAIN ☐ SNOW ☐ OTHER (Specify)

(b) VISIBILITY (Miles, yds., ft., etc.)	(c) WIND DIRECTION	(d) FORCE IN KNOTS	(e) GUSTY	(f) AIR TEMPERATURE
10 Miles	S.W.	07	☐ YES ☒ NO	48°

23 (a) SEA CONDITIONS WHEN CASUALTY OCCURRED	(b) SEA WATER TEMP (If available)	(c) HEIGHT OF SEA	(d) DIRECTION OF SEA	(e) HEIGHT OF SWELL	(f) DIRECTION OF SWELL
Calm	45°	1'	S	2 1/2'	S.W.

24 (a) NATURE OF CARGO (Specify)	(b) AMOUNT OF DRY CARGO (Long tons)	(c) AMOUNT OF BULK LIQUID (Long tons)	(d) AMOUNT OF DECK LOAD (Long tons)
N/A	N/A	N/A	N/A

25 (a) DRAFT FORWARD	(b) DRAFT AFT
7'	7'

26 (a) TYPES OF LIFESAVING EQUIPMENT USED, IF ANY	(b) NO. LIVES SAVED WITH LIFESAVING EQUIPMENT	(c) LIFESAVING EQUIPMENT SATISFACTORY
N/A	N/A	☒ YES ☐ NO (If no, explain in Item 34)

PLATE 72-5-5B(3).1 (cont.)

27	CREW	PASSENGERS	OTHER (Specify)
NUMBER ON BOARD	2	0	0
DEAD/MISSING			
INCAPACITATED (over 72 hours)	1	0	0

28 ESTIMATED LOSS/DAMAGE TO YOUR VESSEL $ 7,500.00
ESTIMATED LOSS/DAMAGE TO YOUR CARGO $
ESTIMATED LOSS/DAMAGE TO OTHER PROPERTY (Specify whether vessel, dock, bridge, etc.) $ 5,000.00

29 NATURE OF THE CASUALTY (Check one or more of the following. Give pertinent details in item 30.)

X	COLLISION WITH OTHER VESSEL(S) (Specify) F/V JANET LUCILLE		EXPLOSION/FIRE (Other)
			GROUNDING
	COLLISION WITH FLOATING OR SUBMERGED OBJECTS		FOUNDER (Sinking)
	COLLISION WITH FIXED OBJECTS (Piers, bridges, etc.)		CAPSIZING WITHOUT SINKING
	COLLISION WITH ICE		FLOODING SWAMPING ETC WITHOUT SINKING
	COLLISION WITH AIDS TO NAVIGATION		HEAVY WEATHER DAMAGE
	COLLISION (Other)		CARGO DAMAGE (No vessel damage)
	EXPLOSION/FIRE (Involving cargo)		MATERIAL FAILURE (Vessel structure)
	EXPLOSION/FIRE (Involving vessel's fuel)		MATERIAL FAILURE (Engineering machinery, including main propulsion, auxiliaries, boilers, evaporators, deck machinery, electrical, etc.)
	FIRE (Vessel's structure or equipment)		EQUIPMENT FAILURE
	EXPLOSION (Boiler and associated parts)		CASUALTY NOT NAMED ABOVE
	EXPLOSION (Pressure vessels and compressed gas cylinders)		

30 DESCRIPTION OF CASUALTY (Events and circumstances leading to casualty and present when it occurred. Attach diagram and additional sheets, if necessary)

Our vessel was engaged in fishing activities when I noticed another vessel bearing down on us. I attempted to get out of the way and blew my horn. My efforts were unsuccessful and she collided with my port side. I was knocked to the deck and suffered a broken arm.

31 DAMAGE (Give brief general description and state if vessel is a total loss.)

Side of vessel busted up. Estimated $7500.00 damage done.

III ASSISTANCE AND RECOMMENDATIONS

32 AUTO ALARM TRANSMITTED BY YOUR VESSEL: ☐ YES ☒ NO

33(a) ASSISTANCE RENDERED BY STATIONS AND VESSELS (Include Coast Guard and other stations and vessels)

None

(b) OTHER ASSISTANCE RENDERED

None

34 RECOMMENDATIONS FOR CORRECTIVE SAFETY MEASURES PERTINENT TO THIS CASUALTY (Include explanation of uncontrollable mooring equipment)

None

TITLE: OPERATOR

SIGNATURE: J. M. Hurt

PLATE 72-5-5B(3).1 (cont.)

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-924E (Rev. 9-68)

REPORT OF PERSONAL INJURY OR LOSS OF LIFE

Form Approved Budget No. 004R-300
REPORTS CONTROL SYMBOL MVI-6016

INSTRUCTIONS

1. This form shall be completed for every loss of life and for every injury which incapacitates the injured for a period in excess of seventy-two hours *(3 days)*, if the accident involves any vessel except those numbered under the Federal Boating Act.
2. Injuries to longshoremen or harbor workers are not required to be reported unless the injury arises out of failure of ship's equipment, a vessel casualty, misconduct or negligence of ship's personnel or the injury results in death.
3. A signed original and two signed copies shall be submitted as soon as possible to the Officer in Charge, Marine Inspection, U. S. Coast Guard, in whose district the accident occurred, or in whose district the vessel first arrive(a)(d) after such casualty.
4. The master or person in charge is required to report in person to the Officer in Charge, Marine Inspection as soon as possible after the casualty occurs unless it can be shown that it was inconvenient to do so because of the distance involved. However, nothing shall relieve the person in charge of the vessel from submitting this report.
5. This report should be completed in full. Blocks which do not apply to a particular case should be indicated as "NA." Where answers are unknown or none, they should be indicated as such.
6. Report all vessel casualties or accidents on Form CG-2692, Report of Vessel Casualty or Accident. Attach a Form CG-924E to the CG-2692 for each person killed, missing or injured as a result of the marine casualty or accident.

TO: Officer in Charge, Marine Inspection, Port of NEW ORLEANS, LA — DATE SUBMITTED: 1 January 1975

I. PARTICULARS OF VESSEL

1. NAME OF VESSEL	2. OFFICIAL NUMBER	3. VESSEL INSPECTED BY USCG	4. NATIONALITY
BLOOMER	654321	☐ YES ☒ NO	U.S.A.

5. TYPE OF VESSEL (Fish., pass., tkr., etc.)	6. PROPULSION (Steam, diesel, etc.)	7. NAME OF [redacted] OPERATOR(S) (Individual to which)
FISHING	Diesel	I. M. HURT

8(a) NAME OF [redacted] PERSON IN CHARGE (Individual to which)	(b) LICENSED BY COAST GUARD
I. M. HURT	☐ YES ☒ NO

II. PARTICULARS OF PERSON INJURED, DECEASED OR MISSING (Delivered dead)

9(a) NAME OF PERSON	(b) HOME ADDRESS	(c) DATE OF BIRTH
I. M. HURT	1 1st Street New Orleans, LA 70222	1-/6/40

10. BOOK OR "Z" NUMBER	11. LICENSED BY COAST GUARD	12. STATUS OR CAPACITY ON VESSEL
N/A	☐ YES ☒ NO	Operator

13. ACTIVITY ENGAGED IN AT TIME OF CASUALTY	14. IF CREW MEMBER OR SHORE WORKER
Fishing	☐ ON WATCH ☒ WORKING ☐ OTHER

15(a) NAME OF IMMEDIATE SUPERVISOR AT TIME OF CASUALTY	(b) SUPERVISOR'S CAPACITY OR STATUS ON VESSEL
N/A	N/A

III. PARTICULARS OF ACCIDENT OR CASUALTY

16. DATE OF CASUALTY	17. TIME OF CASUALTY (Local or zone)	18. ZONE DESCRIPTION	19. TIME OF DAY
1 December 1974	0900 CST	+6	☒ DAY ☐ NIGHT ☐ TWILIGHT

20(a) DID CASUALTY OCCUR WHILE UNDERWAY	(b) IF YES, LAST PORT OF DEPARTURE	(c) IF YES, WHERE BOARD WHEN CASUALTY OCCURRED
☒ YES ☐ NO	New Orleans	Fishing in Gulf

21(a) VESSEL LOCATION AT CASUALTY (Latitude and longitude, distance and TRUE bearing from charted object; depth; uncharted) etc.)	(b) BODY OF WATER (Geographical name)
28N 83W, Gulf of Mexico	Gulf of Mexico

22(a) RESULT OF CASUALTY: ☒ INJURY ☐ DEATH ☐ MISSING
(Complete INJURY or DEATH entries below, as appropriate)

(b) NATURE OF INJURY	(c) TOTAL DAYS INCAPACITATED
Broken Left Arm	3 Wks.

(d) REASON FOR DEATH	(e) LOCATION OF INDIVIDUAL AT DEATH
N/A	N/A
	(f) DATE OF DEATH: N/A

PLATE 72-5-5B(3).1 (cont.)

23 DESCRIPTION OF CASUALTY (Give events leading up to casualty and how it occurred. Attach diagram & additional sheets, if necessary.)

Our vessel was engaged in fishing activities when I noticed another vessel bearing down on us. I attempted to get out of the way and sounded by horn. My efforts were unsuccessful as the vessel collided with my port side. I was knocked to the deck upon impact and broke my arm.

24 WITNESSES TO ACCIDENT (At least two, if possible)

NAME	NAME
B. B. Burns	
ADDRESS 123 33rd Street New Orleans, LA 70322	ADDRESS
NAME C. C. Charles	NAME
ADDRESS 456 66th Street New Orleans, LA 70401	ADDRESS

IV. ASSISTANCE AND RECOMMENDATIONS

25(a) MEDICO (Medical) MESSAGE SENT	(b) IF YES, GIVE DATE OF FIRST MESSAGE	(c) IF YES, GIVE TIME OF FIRST MESSAGE (Local or zone and description)
☐ YES ☒ NO	N/A	N/A

26(a) TREATMENT ADMINISTERED	(b) IF YES, BY WHOM
☐ YES ☒ NO	☐ SHIP'S DOCTOR ☒ OTHER SHIP'S PERSONNEL ☐ OTHER (Specify)

27 BRIEFLY DESCRIBE TREATMENT (If administered by other than M. D.)

N/A

28(a) NAME OF HOSPITAL, IF PERSON WAS HOSPITALIZED	(b) ADDRESS OF HOSPITAL
Good Hospital	1 Treatment Lane New Orleans, LA 70015

29 RECOMMENDATIONS FOR CORRECTIVE SAFETY MEASURES PERTINENT TO THIS CASUALTY

None

TITLE	SIGNATURE
Operator	C. M. Hurt

PLATE 72-5-5B(3).2

FIRST ENDORSEMENT on Investigating Officer's letter, etc. --

From: Officer in Charge, Marine Inspection, New Orleans, LA
To: Commandant (G-MMI-1)
Via: Commander, Eighth Coast Guard District (mvs)

Subj: F/V JANET LUCILLE, O.N. 123456; collision with F/V BLOOMER, O.N. 654321, in the Gulf of Mexico on 1 December 1974, with personnel injury

1. Forwarded approved.

2. A report of violation in the case of T.T. Thomas, operator of the F/V JANET LUCILLE, has been forwarded to the Commander, Eighth Coast Guard District.

A.C. Boss
A.C. BOSS

SECOND ENDORSEMENT on Investigating Officer's letter, etc. --

From: Commander, Eighth Coast Guard District (mvs)
To: Commandant (G-MMI-1)

Subj: F/V JANET LUCILLE, O.N. 123456; collision with F/V BLOOMER, O.N. 654321, in the Gulf of Mexico on 1 December 1974, with personnel injury

1. Forwarded approved.

2. Report of violation is being processed.

W.S. Bigdome
W.S. BIGDOME

PLATE 72-5-10.1

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

Address reply to
Officer in Charge
Marine Inspection
201 Gateway Bldg.
124 Camp St.,
New Orleans, LA 70130

5493/
16732

1 January 1975

From: Investigating Officer.
To : Commandant XXXX (G-MMI-1)
Via : (1) Officer in Charge, Marine Inspection, New Orleans, LA
(2) Commander, Eighth Coast Guard District XX (mvs)

Subj: M/V PAD, O.N. 123456; injury to Adams, Arthur A., crewman on 14 December 1975

1. Investigation of subject case is completed, a narrative report will not be submitted.

2a. The most probable primary cause was one of the following (X)
2b. Additional or contributing cause(s): (O)

Below fault lies with:

Person injured	Other than person injured	
		Intoxication
		Physical factors
		Unsafe movement
		Psychological factors
		Unsafe practice
		Violation of law or regulation
X		Human error, carelessness

0	Decks slippery or cluttered
	Adverse weather (vessel movement)
	Poor maintenance or housekeeping
	Poor or improper lighting
	Lack of or inadequate rails/guards
	Failure of C.G. approved material
	Failure of other material
	Improper supervision
	Lack of life preservers
0	Lack of proper tools/equipment
	Lack of protective equipment
	Improper use of tools/equipment
	Other

3. There is no evidence of actionable misconduct, incompetence, negligence or violation of law or regulations.

3. [redacted]

4. There is no evidence that any personnel of the Coast Guard or any other governmental agency or any other person caused or contributed to the casualty.

5. The Master's comments are none [redacted]

6. It is recommended that the case be closed.

I. M. Done
I. M. DONE
Investigating Officer

Encl: CG-2741 MCO MVI-4015

DATE 1 January 1975 PORT New Orleans, LA	DATE 3 January 1975 CG DISTRICT Eighth
OFFICER IN CHARGE, MARINE INSPECTION--Subject report including the recommendations is forwarded approved.	DISTRICT COMMANDER (m)--forwarded approved.
SIGNATURE XXXXXXXXX I. M. Boss I. M. BOSS	SIGNATURE B. Wheel B. WHEEL By direction

CG-4678 (7-68)

GPO 961-822

PLATE 72-5-10.1 (cont.)

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-924E (Rev. 9-68)

REPORT OF PERSONAL INJURY OR LOSS OF LIFE

Form Approved Budget Bureau No. 0848-3004
REPORTS CONTROL SYMBOL MVI-4616

INSTRUCTIONS

1. This form shall be completed for every loss of life and for every injury which incapacitates the injured for a period in excess of seventy-two hours *(3 days)*, if the accident involves any vessel except those numbered under the Federal Boating Act.
2. Injuries to longshoremen or harbor workers are not required to be reported unless the injury arises out of failure of ship's equipment, a vessel casualty, misconduct or negligence of ship's personnel or the injury results in death.
3. A signed original and two signed copies shall be submitted as soon as possible to the Officer in Charge, Marine Inspection, U. S. Coast Guard, in whose district the accident occurred, or in whose district the vessel first arrive(s)(d) after such casualty.
4. The master or person in charge is required to report in person to the Officer in Charge, Marine Inspection as soon as possible after the casualty occurs unless it can be shown that it was inconvenient to do so because of the distance involved. However, nothing shall relieve the person in charge of the vessel from submitting this report.
5. This report should be comp.eted in full. Blocks which do not apply to a particular case should be indicated as "NA." Where answers are unknown or none, they should be indicated as such.
6. Report all vessel casualties or accidents on Form CG-2692, Report of Vessel Casualty or Accident. Attach a Form CG-924E to the CG-2692 for each person killed, missing or injured as a result of the marine casualty or accident.

TO: Officer in Charge, Marine Inspection, Port of New Orleans, LA

DATE SUBMITTED: 20 December 1975

I. PARTICULARS OF VESSEL

1. NAME OF VESSEL	2. OFFICIAL NUMBER	3. VESSEL INSPECTED BY USCG	4. NATIONALITY
PAD	123456	☐ YES ☒ NO	U.S.A.

5. TYPE OF VESSEL (Pas., passe., tkr., etc.)	6. PROPULSION (Steam, diesel, etc.)	7. NAME OF OWNER(S) (Individual or Firm) (Indicate which)
Towing Vessel	Diesel	A-1 Transportation Corp.

8(a) NAME OF RESPONSIBLE PERSON IN CHARGE (Indicate which)	(b) LICENSED BY COAST GUARD
I. M. CAREFUL	☒ YES ☐ NO

II. PARTICULARS OF PERSON INJURED DECEASED OR MISSING (Believed dead)

9(a) NAME OF PERSON	(b) HOME ADDRESS	(c) DATE OF BIRTH
ADAMS, ARTHUR A.	124 Alpha lane New Orleans, LA 70106	1/2/20

10. BOOK OR "Z" NUMBER	11. LICENSED BY COAST GUARD	12. STATUS OR CAPACITY ON VESSEL
N/A	☐ YES ☒ NO	Crew member

13. ACTIVITY ENGAGED IN AT TIME OF CASUALTY	14. IF CREW MEMBER OR SHORE WORKER
moving barrels on deck	☐ ON WATCH ☒ WORKING ☐ OTHER

15(a) NAME OF IMMEDIATE SUPERVISOR AT TIME OF CASUALTY	(b) SUPERVISOR'S CAPACITY OR STATUS ON VESSEL
I. M. CAREFUL	Operator

III. PARTICULARS OF ACCIDENT OR CASUALTY

16. DATE OF CASUALTY	17. TIME OF CASUALTY (Local or zone)	18. ZONE DESCRIPTION	19. TIME OF DAY
14 December 1975	0900 CST	+6	☒ DAY ☐ NIGHT ☐ TWILIGHT

20(a) DID CASUALTY OCCUR WHILE UNDERWAY	(b) IF YES, LAST PORT OF DEPARTURE	(c) IF YES, WHERE BOARD WHEN CASUALTY OCCURRED
☐ YES ☒ NO	N/A	N/A

21(a) VESSEL LOCATION AT CASUALTY (Latitude and longitude; distance and TRUE bearing from charted object; dock; anchored; etc.)	(b) BODY OF WATER (Geographical name)
A-1 Transport Dock, New Orleans, LA	Lower Mississippi River

22(a) RESULT OF CASUALTY: ☒ INJURY ☐ DEATH ☐ MISSING
(Complete INJURY or DEATH entries below, as appropriate)

(b) NATURE OF INJURY	(c) TOTAL DAYS INCAPACITATED
Broken right arm	28 days

(d) REASON FOR DEATH	(e) LOCATION OF INDIVIDUAL AT DEATH
N/A	N/A
	(f) DATE OF DEATH: N/A

PLATE 72-5-10.1 (cont.)

23 DESCRIPTION OF CASUALTY (Give events leading up to casualty and how it occurred. Attach diagram & additional sheets, if necessary.)

While securing barrels on deck during bad weather, which made the decks slippery and wet, Mr. Adams failed to utilize the dolly available for moving the barrels. He slipped and fell as he could not control the weight of the barrel. The barrel fell over striking him on his right side and he suffered a broken arm.

24 WITNESSES TO ACCIDENT (At least two, if possible)

NAME	NAME
I. M. Careful	
ADDRESS 242 2nd Ave. New Orleans, LA 70311	ADDRESS
NAME	NAME
ADDRESS	ADDRESS

IV. ASSISTANCE AND RECOMMENDATIONS

25(a) MEDICO (Medical) MESSAGE SENT	(b) IF YES, GIVE DATE OF FIRST MESSAGE	(c) IF YES, GIVE TIME OF FIRST MESSAGE (Local or zone and description)
☐ YES ☒ NO S.M.D.	N/A S.M.D.	N/A S.M.D.

26(a) TREATMENT ADMINISTERED	(b) IF YES, BY WHOM
☐ YES ☒ NO S.M.D.	☐ SHIP'S DOCTOR ☒ OTHER SHIP'S PERSONNEL ☐ OTHER (Specify) N/A S.M.D.

27 BRIEFLY DESCRIBE TREATMENT (If administered by other than M. D.)

None

28(a) NAME OF HOSPITAL, IF PERSON WAS HOSPITALIZED	(b) ADDRESS OF HOSPITAL
New Orleans Community Hospital	121 Rt. 3 New Orleans, LA 70112

29 RECOMMENDATIONS FOR CORRECTIVE SAFETY MEASURES PERTINENT TO THIS CASUALTY

None

TITLE	SIGNATURE
Operator	I.M. Careful I.M. CAREFUL

PLATE 72-5-10.2

DEPARTMENT OF TRANSPORTATION
UNITED STATES COAST GUARD

Address reply to
Officer in Charge
Marine Inspection
201 Gateway Bldg.
124 Camp St.
New Orleans, LA 70130
16732/01234

1 January 1975

From: Investigating Officer,
To: Commandant (G-MMI-1)
Via: (1) Officer in Charge, Marine Inspection,
(2) Commander, Eighth Coast Guard District (mvs)

Subj: SS PACKER, O.N. 0654321; Injury to Smith, Alvin A., Z-123456, crewman, on 14 December 1974

1. Investigation of subject case is completed, a narrative report will not be submitted.

2a. The most probable primary cause was one of the following (X)
2b. Additional or contributing cause(s) (O)

Below fault lies with

Person injured	Other than person injured			
		Intoxication		Decks slippery or cluttered
		Physical factors		Adverse weather (vessel movement)
		Unsafe movement		Poor maintenance or housekeeping
X	X	Psychological factors		Poor or improper lighting
		Unsafe practice		Lack of or inadequate rails/guards
		Violation of law or regulation		Failure of C.G. approved material
		Human error, carelessness		Failure of other material
				Improper supervision
				Lack of life preservers
				Lack of proper tools/equipment
				Lack of protective equipment
				Improper use of tools/equipment
				Other

3. [redacted]

3. Since there is evidence of conduct warranting further action under R.S. 4450, such action has been taken or is recommended against Smith, Alvin A., Z-123456

4. There is no evidence that any personnel of the Coast Guard or any other governmental agency or any other person caused or contributed to the casualty.

5. The Master's comments are concurred with and/or are within the capability of the ship safety program.

6. It is recommended that the case be closed.

I. M. Done
I. M. DONE
Investigating Officer

[illegible] CG-924E MCB MVI-4016

DATE / PORT	DATE / CG DISTRICT
1 January 1975 New Orleans, LA	3 January 1975, Eighth
OFFICER IN CHARGE, MARINE INSPECTION--Subject report including the recommendations is forwarded approved.	DISTRICT COMMANDER (m)--forwarded approved.
SIGNATURE I. M. Boss	SIGNATURE B. Wheel B. WHEEL

PLATE 72-5-10.2 (cont.)

DEPARTMENT OF TRANSPORTATION
U. S. COAST GUARD
CG-924E (Rev. 9-68)

REPORT OF PERSONAL INJURY OR LOSS OF LIFE

Form Approved Budget Bureau No. 004R-3004
REPORTS CONTROL SYMBOL MVI-4016

INSTRUCTIONS

1. This form shall be completed for every loss of life and for every injury which incapacitates the injured for a period in excess of seventy-two hours *(3 days)*, if the accident involves any vessel except those numbered under the Federal Boating Act.
2. Injuries to longshoremen or harbor workers are not required to be reported unless the injury arises out of failure of ship's equipment, a vessel casualty, misconduct or negligence of ship's personnel or the injury results in death.
3. A signed original and two signed copies shall be submitted as soon as possible to the Officer in Charge, Marine Inspection, U. S. Coast Guard, in whose district the accident occurred, or in whose district the vessel first arrive(s)(d) after such casualty.
4. The master or person in charge is required to report in person to the Officer in Charge, Marine Inspection as soon as possible after the casualty occurs unless it can be shown that it was inconvenient to do so because of the distance involved. However, nothing shall relieve the person in charge of the vessel from submitting this report.
5. This report should be completed in full. Blocks which do not apply to a particular case should be indicated as "NA." Where answers are unknown or none, they should be indicated as such.
6. Report all vessel casualties or accidents on Form CG-2692, Report of Vessel Casualty or Accident. Attach a Form CG-924E to the CG-2692 for each person killed, missing or injured as a result of the marine casualty or accident.

TO: Officer in Charge, Marine Inspection, Port of New Orleans, LA

DATE SUBMITTED: 20 December 1974

I. PARTICULARS OF VESSEL

1. NAME OF VESSEL	2. OFFICIAL NUMBER	3. VESSEL INSPECTED BY USCG	4. NATIONALITY
PACKER	654321	[X] YES [ ] NO	U.S.A.

5. TYPE OF VESSEL (Pas., pass., tkr., etc.)	6. PROPULSION (Steam, diesel, etc.)	7. NAME OF OWNER(S) (Indicate which)
Freight	Steam	Packer Freight Service

8(a) NAME OF MASTER (Indicate which)	(b) LICENSED BY COAST GUARD
A. A. MILLER	[X] YES [ ] NO

II. PARTICULARS OF PERSON INJURED, DECEASED OR MISSING (Believed dead)

9(a) NAME OF PERSON	(b) HOME ADDRESS	(c) DATE OF BIRTH
Smith, Alvin A.	111 11th St., New Orleans, LA 70111	1/10/35

10. BOOK OR "Z" NUMBER	11. LICENSED BY COAST GUARD	12. STATUS OR CAPACITY ON VESSEL
Z-123456	[ ] YES [X] NO	Oiler

13. ACTIVITY ENGAGED IN AT TIME OF CASUALTY	14. IF CREW MEMBER OR SHORE WORKER
Off Duty	[ ] ON WATCH [ ] SIGNING [X] OTHER

15(a) NAME OF IMMEDIATE SUPERVISOR AT TIME OF CASUALTY	(b) SUPERVISOR'S CAPACITY OR STATUS ON VESSEL
J. J. JONES	Jr. Asst. Engineer

III. PARTICULARS OF ACCIDENT OR CASUALTY

16. DATE OF CASUALTY	17. TIME OF CASUALTY (Local or zone)	18. ZONE DESCRIPTION	19. TIME OF DAY
14 December 1974	0900 C.S.T.	6	[X] DAY [ ] NIGHT [ ] TWILIGHT

20(a) DID CASUALTY OCCUR WHILE UNDERWAY	(b) IF YES, LAST PORT OF DEPARTURE	(c) IF YES, WHERE BOUND WHEN CASUALTY OCCURRED
[ ] YES [X] NO	N/A	N/A

21(a) VESSEL LOCATION AT CASUALTY (Latitude and longitude; distance and TRUE bearing from charted object; dock; anchored; etc.)	(b) BODY OF WATER (Geographical name)
Packer Freight Terminal, New Orleans, LA	Lower Mississippi River

22(a) RESULT OF CASUALTY: [X] INJURY [ ] DEATH [ ] MISSING
(Complete *INJURY* or *DEATH* entries below, as appropriate)

(b) NATURE OF INJURY	(c) TOTAL DAYS INCAPACITATED
Fractured wrist and bruised knuckles	14 days

(d) REASON FOR DEATH	(e) LOCATION OF INDIVIDUAL AT DEATH
N/A	N/A
	(f) DATE OF DEATH: N/A

PLATE 72-5-10.2 (cont.)

23 DESCRIPTION OF CASUALTY (Give events leading up to casualty and how it occurred. Attach diagram & additional sheets, if necessary.)

Witnesses state that Alvin Smith provoked a fight with the BOSN, Mr. Berry. Mr. Smith struck the bulkhead with his fist as Mr. Berry ducked a punch.

24 WITNESSES TO ACCIDENT (At least two, if possible)

NAME	NAME
B. B. BERRY	
ADDRESS On board PACKER	ADDRESS
NAME	NAME
C. C. COLLINS	
ADDRESS 444 44th St., New Orleans, LA	ADDRESS

IV. ASSISTANCE AND RECOMMENDATIONS

25(a) MEDICO (Medical) MESSAGE SENT	(b) IF YES, GIVE DATE OF FIRST MESSAGE	(c) IF YES, GIVE TIME OF FIRST MESSAGE (Local or zone and description)
☐ YES ☒ NO	N/A	N/A

26(a) TREATMENT ADMINISTERED	(b) IF YES, BY WHOM
☒ YES ☐ NO	☐ SHIP'S DOCTOR ☒ OTHER SHIP'S PERSONNEL ☐ OTHER (Specify)

27 BRIEFLY DESCRIBE TREATMENT (If administered by other than M. D.)

Cold packs applied and arm placed in sling.

28(a) NAME OF HOSPITAL, IF PERSON WAS HOSPITALIZED	(b) ADDRESS OF HOSPITAL
New Orleans Community Hospital	121 Rt. 3 New Orleans, LA 70112

29 RECOMMENDATIONS FOR CORRECTIVE SAFETY MEASURES PERTINENT TO THIS CASUALTY

Keep trouble maker off ship.

TITLE	SIGNATURE
Master	A. A. Miller A. A. MILLER

PLATE 72-5-50B(2).1

Sample Narrative Report on Natural Death; Non-Certificated Personnel

From: Investigating Officer
To: Commandant (G-MMI-1)
Via: (1) Officer in Charge, Marine Inspection, New Orleans, La.
(2) Commander, Eighth Coast Guard District (mvs)

Subj: M/V PAD, O.N. 123456; death of passenger John DOE in the Gulf of Mexico on 1 January 1975

Findings of Fact

1. On 1 January 1975, at 1030 CST, John DOE, a passenger on board the M/V PAD, of 124 Terrace Lane, New Orleans, La., died as a result of a cardiac arrest while fishing in the Gulf of Mexico. DOE, age 60, is survived by his wife, Mary DOE, of the same address.

2. On the morning of 1 January 1975, John DOE suffered severe chest pains and had to be escorted below where he lay down. There was no doctor on board, and the operator, fearing that DOE had suffered a heart attack, proceeded into port. The operator radioed ahead for assistance at the pier. As the vessel proceeded to port, DOE's condition worsened, and he passed into unconsciousness just prior to arrival at the pier. Artificial respiration was rendered by the deck hand when it became evident that DOE had stopped breathing. Upon arrival, DOE was transferred by ambulance to St. Mary's Hospital, 345 Elm Street, New Orleans, La., where he was pronounced dead on arrival.

3. Mr. DOE's remains were removed from the hospital on 1 January 1975, by the Sympathy Funeral Home, New Orleans, La. He was buried in the Heavenly Rest Cemetery, New Orleans, La., on 4 January 1975.

Conclusions

1. John DOE died from natural causes; viz., cardiac arrest due to myocardial infarction.

2. There is no evidence of actionable misconduct, inattention to duty, negligence, or willful violation of law or regulation on the part of licensed or certificated persons; nor evidence of failure of inspected material or equipment; nor evidence that any personnel of the Coast Guard, or any other government agency, or any other person, contributed to the casualty.

Recommendation

1. It is recommended that this casualty investigation be closed.

Joseph Sniff
JOSEPH SNIFF

Encl: (1) Death Certificate
(2) CG-924E for John DOE

PLATE 72-5-50B(2).2

Sample Narrative on Natural Death; Certificated Personnel

From: Investigating Officer
To: Commandant (G-MMI-1)
Via: (1) Officer in Charge, Marine Inspection, New Orleans, La.
(2) Commander, Eighth Coast Guard District (mvs)

Subj: SS LUCILLE LYKES, O.N. 123456; death of John DOE, crew member, in the Gulf of Mexico on 1 January 1975

Findings of Fact

1. On 1 January 1975, at about 1300 CST, John DOE, Age 59, Chief Engineer, License No. 987654, MMD No. 123-45-6789, of 123 Sail Lane, New Orleans, La., died as a result of a cardiac arrest. The SS LUCILLE LYKES was underway in the Gulf of Mexico in position 23 22' North, 82 55' West, at the time of this incident. DOE is survived by his wife, Mary Doe, of the same address.

2. At about 1215 CST on 1 January 1975, DOE was seen leaving the pantry after having finished lunch. At about 1230 CST the second assistant engineer, Ray Smith, went to DOE's stateroom to inform him of the afternoon fire drill. Smith found DOE lying face down on the deck of his room and did not detect any signs of breathing. Smith immediately sent for the master and began to administer artificial respiration. Treatment was continued until about 1300 CST at which time there were no signs of life.

3. The body of DOE was transferred to a Coast Guard utility boat at the Key West, Florida, sea buoy. The death certificate indicated the cause of death as a cardiac arrest due to myocardial infarction. DOE's body was subsequently cremated at Memorial Gardens, Key West, Florida, on 4 January 1975. Personal effects and wages were turned over to the U.S. District Court, New Orleans, La. DOE's merchant mariner's document and license have been delivered to his wife.

Conclusions

1. John DOE died from natural causes; viz., cardiac arrest due to myocardial infarction.

2. There is no evidence of actionable misconduct, inattention to duty, negligence, or willful violation of law or regulation on the part of licensed or certificated persons; nor evidence of failure of inspected material or equipment; nor evidence that any personnel of the Coast Guard, or any other government agency, or any other person contributed to the casualty.

Recommendation

1. It is recommended that the casualty investigation be closed.

Joseph Sniff
JOSEPH SNIFF

Encl: (1) Death Certificate
(2) CG-924E for John DOE
(3) Log Entry Certified
(4) Shipping Article Certified

PART 72-6 -- INVESTIGATIVE RECORDS

72-6-1. MODIFICATIONS OF PRECEPT

Modifications of the precept (or convening order) of a marine board of investigation are signed and issued by the convening authority; they must not be confused with the individual orders to officers serving on a board. These modifications appear immediately after the precept as a part of every record, when changes have been made in the composition of the board's membership.

72-6-5. MAKEUP OF THE INVESTIGATIVE RECORD

Investigative records are frequently separated for release to parties in interest and others associated with a casualty investigation. For this reason, the format of such records differs from that established in the Coast Guard Supplement to the Manual for Courts-Martial, United States, CG-241.

In general, the narrative report is in letter form from the board or investigating officer to the Commandant. It sets forth the findings of fact, conclusions, and recommendations concerning the case at hand as discussed in part 72-5, and includes the required endorsement from the chain of command. Each paragraph in each segment of the report should be numbered consecutively (Finding of Fact #1, 2; Conclusion # 1, 2, etc.). Following the body of the narrative report is the record of proceedings, which consists of the cover page, index, precept, modifications of the precept, testimony, documents, and exhibits.

72-6-10. RECORDS FILED AT HEADQUARTERS

For those cases where a narrative report is required, the original copy of the complete record (see section 72-6-35C) of the marine casualty investigation will be retained by Commandant (G-MMI-1).

72-6-15. ENCLOSURES AND OTHER AGENCY REPORTS

The enclosures and exhibits in every casualty investigation record generally are public information and are readily available. However, materials such as post-mortem examination and autopsy reports, police reports, letters, telegrams, messages, and similar media furnished by Federal, State, or local authorities which are protected from disclosure should not be made part of the Coast Guard's public record unless permission is first obtained from the authority. When such permission is granted, a statement to that effect is required in the narrative report or letter of transmittal.

Coast Guard Boating Accident Reports (Form CG-3865) and State boating accident reports which are submitted to State authorities in accordance with 33 CFR 173, Appendix A(a), are protected from disclosure by 46 U.S.C. 1486(e) and shall not be included in the public record of the investigation; however, they should be attached to the record for the Commandant's review (NOTE: Form CG-3865's which are submitted in accordance with 33 CFR 173, Appendix A(b) are

not protected from disclosure and consequently shall be made part of the public record).

72-6-20. DUPLICATING PROCESSES

Commandant (G-MMI) retains records of marine boards of investigation permanently. Other casualty investigation records are retained for ten years. Therefore, it is imperative that original records be prepared on long-lasting materials. Mimeographed, electrophotographed, and similar materials which are prone to fade over long periods of time, or processes which produce less than optimum legibility, shall not be used.

72-6-25. TRANSCRIPT OF TESTIMONY

72-6-25A. FORMAL INVESTIGATIONS

A verbatim transcript of the record of a marine board of investigation is required. If the services of a commercial reporter are authorized, contracts should be made only with most reliable firms which are familiar with such proceedings, so as to ensure the maximum accuracy of transcription. Care shall be taken that the contract includes provisions to ensure preparation of the transcript within a reasonable period of time. Overnight or simultaneous transcription is usually unnecessary and its higher costs are unwarranted. Qualified stenotypists should be employed wherever available through GSA schedule contracts (see subpart 70-5-30 of this manual). Contracts for commercial reporting services which grant exclusive transcription and duplication rights to the service shall not be made, consistent with the public right to access under 49 CFR 7.

72-6-25B. ROUTINE INVESTIGATIONS

A verbatim transcript of witnesses' testimony, even in routine or informal investigations, is beneficial, especially if conflicting evidence is likely. Office stenographers or electronic recording equipment are usually suitable for this purpose. Additionally, witnesses' statements may be received in longhand, submitted by the witnesses themselves or by the investigating officer. The Coast Guard has no objection to parties in interest or others providing their own reporters to record the proceedings, should it be decided not to transcribe the record for official records. In this event, those parties or their counsel should be notified so that they may make appropriate arrangements.

72-6-30. COPIES REQUIRED

The number of copies of records required depends on the type of casualty and the resulting investigation. The original record and one copy of every narrative report shall be submitted to Commandant (G-MMI-1), except that:

(A) In cases involving Coast Guard or other public vessels, when it appears that there will be claims filed for or against the United States and resulting litigation, two copies of the record shall be submitted with the original;

(B) In all cases heard by a marine board, three copies (plus original) of the report and one copy (plus original) of the record shall be submitted;

(C) In cases in which evidence of criminal liability is adduced, a duplicate original of the complete record shall also be submitted to the district commander for forwarding to the U.S. attorney (see section 72-2-55A);

(D) In cases which meet the definition of a "serious casualty" (see paragraph 72-1-25C(3)), an additional copy of the narrative report shall be submitted to Commandant (G-MMI-1) for forwarding to IMCO (see section 72-5-25F).

A copy of the public record shall be retained by the cognizant OCMI for public access in accordance with 49 CFR 7. The district commander may require an additional copy for the same purpose.

72-6-35. DEFINITIONS

72-6-35A. DUPLICATE ORIGINALS

When the record is prepared by typewriter with carbon paper for copies, the term "duplicate original" means the original signed ribbon copy, plus one or more complete carbon copies made in the same typewriter run which bear all signatures included on the original. In duplicate copies of a complete record, copies of original signed statements and exhibits shall be authenticated by the investigating officer or recorder of the marine board. If copies other than the original signed ribbon copy are prepared through a duplicating process, any copy bearing signatures, authenticated copies of signed statements, exhibits, etc. are likewise duplicate originals.

72-6-35B. NARRATIVE REPORT OF CASUALTY

The term "narrative report" means the findings of fact, conclusions, recommendations, and endorsements.

72-6-35C. COMPLETE RECORD

The term "complete record" means the narrative report, all evidentiary materials, testimony, statements, exhibits, convening orders, Form CG-2692's, and all other materials forming a substantive part of the record of the proceedings.

72-6-35D. ADMINISTRATIVE FILE

The recorder of a marine board keeps all correspondence bearing upon the casualty under investigation, such as letters requesting copies of the report, in a separate administrative file. This file may include any materials bearing on the case which do not form part of the complete record as defined above. The administrative file should be in two parts: one which includes all material which requires the Commandant's action after submittal of the report, and one which contains all other correspondence. Upon completion of the investigation, the file shall be forwarded to Commandant (G-MMI-1) (see section 72-3-70A of this manual).

72-6-40. FIELD OFFICE COPIES OF INVESTIGATIVE REPORTS

A copy of the record shall be retained by the OCMI for public access in accordance with 49 CFR 7. District commanders may require an extra copy of the record for the same purpose.

72-6-45. RELEASE OF MATERIALS

Investigative reports, vessel casualty reports (Form CG-2692), personal injury reports (Form CG-924E), casualty report transmittal letters, and records of investigations required to be retained by the Coast Guard are generally available to the public in accordance with 49 CFR 7 (see subpart 72-6-15 for a discussion of those materials protected from public disclosure).

72-6-45A. RECORDS

The record of a marine casualty investigation, whether conducted by a marine board or an investigating officer, shall be made available at any time during the proceedings upon written request to the chairman of the marine board or, in less severe cases, to the OCMI in whose jurisdiction the casualty occurred. Availability is contingent upon the following terms: (1) that the record is in a form suitable for release (while Forms CG-924E or 2692, messages, and written statements are readily available, untranscribed recordings, steno notes or tapes, and undeveloped film are not considered readily available for release); and (2) that the record will be made available on a not-to-interfere basis with the fact-gathering process. The casualty investigation will proceed in accordance with the requirements of Federal statutes.

72-6-45B. REPORTS OF CASES INVOLVING LOSS OF LIFE, WHEN COMPLETE

The report of a casualty involving loss of life will be considered complete and thus releasable to the public upon the Commandant's action (unless specifically exempted by 49 CFR 7).

72-6-45C. REPORTS OF OTHER CASES, WHEN COMPLETE

The report of a casualty not involving loss of life will be considered complete and releasable upon the district commander's action, or upon the commanding officer's action when such reports are submitted directly to Commandant (G-MMI-1) in accordance with subpart 72-5-40. However, Commandant (G-MMI-1) shall be advised of releases which will likely have regional or local impact, including a briefing on matters of a sensitive nature.

72-6-45D. LETTERS OF PRESUMED DEATH

Requests from next-of-kin concerning authoritative confirmation as to the disappearance and presumed death of persons involved in casualties may be administratively handled by the chairman of a marine board prior to completion of the Commandant's action. The chairman may forward a letter to next-of-kin stating that, at that time, the missing person is presumed dead. Investigating officers, however, are not authorized to issue letters of presumed death.

PART 72-7 -- CASUALTY INVESTIGATIONS BY MARINE INSPECTION OFFICES IN FOREIGN COUNTRIES

72-7-1. GENERAL

Overseas marine inspection offices have been established to assist the Commandant and district commanders in the performance of varied marine safety activities, one of which is the investigation of marine casualties within the authority of 46 U.S.C. 239 and 46 CFR 4.

72-7-5. MIO ROTTERDAM

72-7-5A. GENERAL

Commander, Coast Guard Activities Europe (COMCOGARDACTEUR) exerts operational and administrative control over the marine inspection office in Rotterdam, the Netherlands. The procedures for handling casualty investigations shall parallel those utilized within a district command, except as modified below.

72-7-5B. FORWARDING OF RECORDS

All original records of completed casualty investigations shall be forwarded to Commandant (G-MMI-1), via COMCOGARDACTEUR, with such copies as may be directed. The OCMI, Rotterdam may forward a copy of the record "Direct to Expedite" to Commandant (G-MMI-1) when the need for information and circumstances so merit.

Should the OCMI or COMCOGARDACTEUR deem the circumstances of a casualty to require further investigation, or when otherwise warranted, a copy of the incomplete record and a letter transferring control of the investigation shall be mailed directly to the OCMI at the subject vessel's first port of call in the U.S. A copy of the letter transferring control of the investigation and a copy of the incomplete record shall also be forwarded to Commandant (G-MMI-1). The OCMI completing the investigation will subsequently submit the complete record to Commandant (G-MMI-1).

72-7-5C. ENDORSEMENT OF INVESTIGATION RECORDS

COMCOGARDACTEUR will endorse records of casualty investigations performed by MIO Rotterdam in accordance with the policy in part 72-5 of this manual. When it appears that the record cannot be forwarded as indicated in subpart 72-5-40, due to lack of technical or other assistance that is normally available to Stateside marine safety units, the completed record shall be submitted to Commandant (G-MMI-1) with the endorsement, "Forwarded for further review and action as deemed appropriate."

72-7-10. MIO KOBE

Commander, Fourteenth Coast Guard District exerts operational and administrative control over the marine inspection office in Kobe, Japan. Procedures for handling casualty investigations shall parallel those utilized within district commands. Copies of records of casualty investigations may, if appropriate, be forwarded to section commands for information purposes.

72-7-15. SPECIAL CIRCUMSTANCES OF INVESTIGATIONS

The Commandant may, upon receipt of information concerning a casualty, initiate such investigations as may be necessary in accordance with 46 CFR 4.07-1(a). Specific instructions on this prerogative can be expected in instances of casualties which are significant, which present peculiar problems, or which require the Commandant's express attention.

72-7-20. LOGBOOK NOTATIONS MADE BY INVESTIGATING OFFICERS

In every case where action of any kind is taken by the OCMI during a casualty investigation, a summary of such actions shall be entered into the logbook(s) of the vessel(s) involved. This summary shall indicate the date on which the investigation was conducted, whether the OCMI's action is complete or incomplete, and the likelihood of further investigation. If the action is incomplete, the summary shall note whether a change in control of the investigation is intended. The summary shall further note whether prescribed forms (CG-924E and CG-2692) have been submitted.

72-7-25. COMMANDANT'S REVIEW OF INVESTIGATIVE REPORTS

Upon the review of an investigation record of a case requiring a Commandant's Action, a copy of the action will be forwarded by Commandant (G-MMI-1) for inclusion in the MIO's records.

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